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Thursday, August 7, 1986

OPENING OF SESSION

At 9:46 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT: The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT: Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT: Everybody will please remain standing for the Prayer to be led by the Honorable Florangel Rosario Braid.

Everybody remained standing for the Prayer.

PRAYER

MS. ROSARIO BRAID: Lord of Creation: In supreme wisdom You have bestowed bountiful gifts upon Your children. In this country of ours, You have been generous beyond measure. We marvel at the abundant resources of nature, pleasing to the eye and provident to our physical needs. You have endowed many of Your children with talents to be dedicated to the service of humanity. And yet there is hunger and weeping in the land. The powers of darkness hang over us, shaking our faith in ourselves. As we strive for truth and social justice, our thoughts dwell on the words of the poet who said:

To you the earth yields her fruit, and you shall not want if you know how to fill your hands. It is in exchanging the gifts of the earth that you shall find abundance and be satisfied. Yet, unless the exchange be in love and kindly justice, it will but lead some to Breed and others to hunger.

Help us see the need to be independent and the grace to admit our need for interdependence, the need for self-reliance and yet to be compassionate to others.

We have completed an important milestone; we have listened to our people who have helped us identify the hues, the weave and the pattern of this tapestry — a document which hopefully would capture their aspirations.

We thank You for the dedication of our fellow Commissioners, for the sacrifice of our Secretariat and support staff, and our fellow countrymen out there in the gallery, whose love for our country and people has motivated them to share with us their hopes. Continue to inspire us to work for Your greater glory. Amen.

ROLL CALL

THE PRESIDENT: The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, reading:

Abubakar Present[*] Natividad Present[*]

Alonto Present Nieva Present[*]

Aquino Present Nollado Present

Azcuna Present[*] Ople Present[*]

Bacani Present[*] Padilla Present[*]

Bengzon Present[*] Quesada Present

Bennagen Present Rama Present

Bernas Present Regalado Present

Rosario Braid Present Reyes de los Present

Brocka Present[*] Rigos Present

Calderon Present Rodrigo Present

Castro de Present Romulo Present

Colayco Present Rosales Present

Concepcion Present Sarmiento Present

Davide Present Suarez Present

Foz Present Sumulong Present

Garcia Present[*] Tadeo Present

Gascon Present[*] Tan Present

Guingona Absent Tingson Present

Jamir Present Treñas Present

Laurel Present[*] Uka Present

Lerum Present[*] Villacorta Present

Maambong Present[*] Villegas Present

Monsod Present

The President is present.

The roll call shows 33 Members responded to the call.

THE PRESIDENT: The Chair declares the presence of a quorum.

MR. CALDERON: Madam President.

THE PRESIDENT: The Assistant Floor Leader is recognized.

MR. CALDERON: I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDENT: Is there any objection that we dispense with the reading of the Journal of the previous session? (Silence) The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON: Madam President, I move that we approve the Journal of the previous session.

THE PRESIDENT: Is there any objection that we approve the Journal of the previous session? (Silence) The Chair hears none; the motion is approved.

MR. CALDERON: Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolution on First Reading and Communications, the President making the corresponding references:

PROPOSED RESOLUTION ON FIRST READING

Proposed Resolution No. 536, entitled:

RESOLUTION AMENDING SECTION TWENTY-EIGHT OF THE RULES OF THE CONSTITUTIONAL COMMISSION BY ALLOWING RECONSIDERATION OF CONSTITUTIONAL PROPOSALS EMBODIED IN THE FINAL DRAFT OF THE CONSTITUTION BEFORE ITS FINAL APPROVAL.

Introduced by Hon. Sarmiento.

To the Steering Committee.

COMMUNICATIONS

Letter from Mr. Crispin C. Maslog, President of the Philippine Association of the Philippine Association of Communication Educators, College, Laguna, recommending a broad-based ownership of mass media establishment of more community-based newspapers and broadcast stations, Filipinization of mass media ownership, and prohibition of cross-ownership of mass media, among others.

(Communication No. 471 — Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from the Daughters of Mary Immaculate, Our Lady of Remedios Circle, Malate Catholic Church, M. H. del Pilar, Malate, Manila, recommending some measures for the establishment of a moral regeneration of values throughout the country.

(Communication No. 472 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Jaime Hermida Ching, a contract worker in Dammam, Kingdom of Saudi Arabia, containing his suggestions in the framing of the new Constitution.

(Communication No. 473 — Constitutional Commission of 1986)

To the Steering Committee.

Letter jointly signed by Messrs. Horacio M. Monteferio, Cesar P. Macasero, Arturo P. Casuga, and Pedro L. Esteban, requesting inclusion in the Article on Education, Science, Technology, Sports, Arts Culture of the Constitution the following proposed provision: "THE STATE, IN PARTNERSHIP, THE INDUSTRIAL AND BUSINESS SECTORS, SHALL ESTABLISH, MAINTAIN AND SUPPORT AN INTEGRATED AND COORDINATED SYSTEM OF TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING FROM THE SECONDARY TO TERTIARY LEVELS FOR MORE EFFECTIVE HUMAN SOURCE DEVELOPMENT AND UTILIZATION."

(Communication No. 474 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Fulgencio S. Factoran, Jr., Deputy Executive Secretary, Office of the President, Malacañang, transmitting the letter of Sgt. Joven Giangan of PAF, Mactan Air Base, Lapulapu City, seeking the abolition of the political party system.

(Communication No. 475 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from Mr. Rolando Cimafranca of Chugum cor. Abanao Street, Baguio City, seeking a definite provision in the Constitution protecting the right to life of the unborn from the moment of conception.

(Communication No. 476 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Justino E. Honculada of 311 D. Alviola Village, Butuan City, expressing apprehension over the approval of a constitutional provision allowing illiterates to vote.

(Communication No. 477 — Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Mr. Victor Gruta of Biriran, Juban, Sorsogon, submitting an unnumbered resolution of the Biriran Irrigators' Service Association, requesting exemption of small landowners from the implementation of the land reform program.

(Communication No. 478 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Hilario L. de Pedro III, O.I.C. of Koronadal, South Cotabato by the municipal government of Koronadal, favoring, among others, the retention of U.S. military bases, a bicameral legislature, election of Congressmen by district, presidential type of government, and the abolition of the death penalty.

(Communication No. 479 — Constitutional Commission of 1986)

To the Steering Committee.

Communication signed by Mr. Omar Mendoza of the UP Science Research Foundation and three thousand nine hundred thirty-five others with their respective addresses, seeking the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 480 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Mr. Haji Jameel Ramli A. Noor of 38 Pangarungan Village, Marawi City, submitting for consideration by the Constitutional Commission a manuscript entitled: "Islamic Autonomous Government or Federal State for the Muslims: The Only Acceptable Formula is Its Incorporation in the New Constitution to Formally and Finally Integrate the Muslims into the Philippine Body Politic."

(Communication No. 481 — Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Cesar V. Canchela, transmitting the position paper of the United Architects of the Philippines, CCP, Roxas Boulevard, Metro Manila, recommending, among others, for inclusion in the Constitution the utilization of the services of Filipino professionals and consultants on government projects funded by the Philippine government and from foreign loans and grants.

(Communication No. 482 — Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from Mr. Santiago B. Galang of 14 7th Avenue, Cubao, Quezon City, expressing apprehension over the influx of the Chinese and their monopoly of businesses in the Philippines.

(Communication No. 483 — Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Isaias P. Costelo of 285 Picnic Ground, Tugbungan, Zamboanga City, proposing, among others, a presidential type of government with a bicameral legislature and the creation of a Commission on Appointments.

(Communication No. 484 — Constitutional Commission of 1986)

To the Steering Committee.

Communication from Ms. Edna Desalapo of 2258 Int. 11-53 Leveriza, Malate, Manila and one hundred twenty others from Sta. Ana, Pandacan, Leveriza and San Andres Bukid, Manila, suggesting provisions on social justice, housing, education, labor, family and women's rights, among others.

(Communication No. 485 — Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Erlindo P. Llanera of Villa Maria Subdivision, Travesia, Guinobatan, Albay, suggesting a preamble couched in the language of God-loving citizens of a free nation, a four-year presidential term and nonimmunity from suit of the President.

(Communication No. 486 — Constitutional Commission of 1986)

To the Committee on the Executive.

Communication from Ms. Trifona P. Macapanas for the Ramis Barangay High School Students Organization Hinabangan, Samar, submitting resolutions proposing the abolition of the National College Entrance Examination and allowing colleges and universities to administer entrance examinations; and the adoption of Tagalog as the medium of instruction.

(Communication No. 487 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Ms. Fe Samaniego for the National Spiritual Assembly of the Baha'is of the Philippines, Inc., 1070 A. Roxas, Singalong, Manila, submitting proposals for the State to inculcate in the individual the conviction and consciousness of the essential unity of the human race as the only viable standard for social and economic justice, and for the State to provide free elementary and high school education in public schools wherein comparative religion shall be taught.

(Communication No. 488 — Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Messrs. Lito Urgino and Frank Padilla for Families for Justice and Peace, 300 P. Guevarra, San Juan, Metro Manila, submitting 5,830 signatures in support of Resolution No. 272, introduced by the Honorable Commissioners Nieva, Bacani, Muñoz-Palma, Rigos, Gascon, and Guingona, to incorporate in the Constitution a separate article on the protection and promotion of the rights of the family; and recommending the approval of a provision which mandates the protection of the life of the mother and the unborn human life from the moment of conception.

(Communication No. 489 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Ms. Maribel C. Purisima of the Ministry of Trade and Industry and one thousand five hundred and twelve other petitioners, seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 490 — Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 534

(Article on Social Justice)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA: I move that we take up the unfinished consideration of the Article on Social Justice which is now in the period of amendments.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the motion is approved.

The honorable Chairman and members of the Committee on Social Justice are requested to please occupy the

front table in order that we may proceed with the continuation of the period of amendments.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:02 a.m.

RESUMPTION OF SESSION

At 10:08 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, while the text of the amendment of Commissioner Colayco to Section 3 is still being xeroxed, I move that we proceed to Section 5 since there are no proponents of amendments for Section 4.

May I ask that Commissioner Jamir be recognized.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Madam President, my amendment is in connection with the second sentence of Section 5 which reads: "To this end, the State shall encourage . . ." After the word "shall," put a comma (,) and add the words BY LAW then put a comma (,). So with my amendment, the sentence will now read: "To this end, the State shall, BY LAW, encourage and undertake the just distribution . . ."

THE PRESIDENT: What does the Committee say?

MR. SUAREZ: Madam President, may I call the attention of Commissioner Jamir to the clause "as Congress may prescribe." Does the Commissioner not feel that the clause adequately satisfies the requirement regarding the insertion of his amendment between the words "the State" and "shall"? The clause "as Congress may prescribe" is descriptive or restrictive of the previous phrase.

MR. JAMIR: I believe so, Madam President.

THE PRESIDENT: Does Commissioner Suarez refer to the clause "and other conditions as Congress may prescribe" which would not necessitate the insertion of the words "BY LAW" after "the State shall"?

MR. SUAREZ: That is right, Madam President.

We suggest that there must be a comma (,) before the word "as."

MR. JAMIR: Madam President, I am transposing my amendment to the first sentence instead. So after the word "shall," it will read: "The State shall, BY LAW, undertake a genuine agrarian . . ."

MR. SUAREZ: I think there is merit in the transposition.

MR. JAMIR: Thank you.

MS. NIEVA: Madam President, we would like to call attention to certain slight corrections. We have already agreed to remove "genuine" as a qualifying word for agrarian reform on the first line. The Committee had already accepted this.

MR. JAMIR: Thank you.

THE PRESIDENT: Is Commissioner Jamir satisfied?

MR. SUAREZ: Madam President, the whole sentence would now read: "The State shall, BY LAW, undertake an agrarian reform program . . ."

THE PRESIDENT: Can we now proceed to vote?

MR. RAMA: Yes, Madam President, because the amendment has been accepted by the Committee.

THE PRESIDENT: Is there any objection to the amendment proposed on the first line of the draft of the committee report? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: Madam President, I ask that Commissioner Davide be recognized to amend Section 5.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The amendment is very simple. On the third line of Section 5. between the words "farmworkers" and "to," I propose to insert a comma (,) after "farmworkers" followed by the phrase ESPECIALLY THE LANDLESS then put a comma (,) after it. And on the fourth line after "till," put a comma (,) so it will read: "and regular farmworkers, ESPECIALLY THE LANDLESS, to own directly or collectively the lands they till, OR, in the case of other . . ."

MR. TADEO: Commissioner Davide, maaari bang pakiliwanag lamang kung ano ang ibig sabihin ng "landless"?

MR DAVIDE: The term "landless" refers to the regular farm workers or the farmers who do not own lands of their own. So, priority must be given to them, because the farmers and regular farm workers mentioned here may or may not have lands of their own, and I want priority to be given to the landless of these farmers and regular farm workers.

MR. TADEO: Marahil mas magaling kung ipaliliwanag natin ito nang mabuti. Ang programa nitong nakaraan sa ilalim ni Ginoong Marcos ay tinawag na "land for the tillers." Ngunit noong panahon ni Presidente Magsaysay, tinawag naman itong "land for the landless." Ang mga farmers at regular farm workers ay parehong landless.

MR. DAVIDE: No, not necessarily. In the course of my interpellation, the Gentleman admitted that if one has a small land but works on the land of another during the off-season, he may be entitled to get that particular land of another, in addition to his own.

MR. MONSOD: Madam President, that phrase may not be in the contemplation of the Committee because it means, as Commissioner Davide has said, that somebody who already has land and may be helping his neighbor by being a hired manager of the adjoining lot, would still be entitled to acquire that adjoining lot under the agrarian reform program. To include the landless, meaning even those who already have land, to be beneficiaries under the agrarian reform program is not the intent of the Committee.

MR. DAVIDE: No, that was not the answer of Commissioner Tadeo to my question before.

MR. TADEO: Commissioner Monsod, palagay ko ay mayroong katuwiran si Commissioner Davide. Ang tinutukoy niya ay ang mga farmers and regular farm workers na walang sariling pag-aari at nagsasaka pa sa iba.

MR. DAVIDE: That is correct.

MR. TADEO: Ang binibigyan ng priority ay iyong landless farmers and regular farm workers na walang sariling lupang sinasaka at nakikisaka pa sa iba.

MR. DAVIDE: Yes, I think that should really be the thrust of land reform.

MR. MONSOD: Yes, but there is a division in the Committee. When we say "especially the landless," that suggests that even those who already have land would still be beneficiaries.

MR. DAVIDE: Let us just clarify this for the record. What really is the objective of land reform? Is it to give priority to the landless and should not be applied to farm workers and farmers who already have lands of their own?

MR. TADEO: I agree with Commissioner Davide.

MR. DAVIDE: So, I think the Commission will have to decide on this particular issue — the scope of agrarian reform.

MR. DE LOS REYES: Madam President, may I offer an amendment to the amendment of Commissioner Davide?

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Will Commissioner Davide accept an amendment by placing the word "LANDLESS" between "regular" and "farmworkers" so that it will read: "on the basic right of farmers and regular LANDLESS farmworkers. . ."

MR. DAVIDE: The amendment will not remedy the apparent conflict in the interpretation, because under that particular interpretation, it would apply only to regular landless farm workers but not to farmers with out lands of their own. So, I really would seek a definite stand of the Committee.

THE PRESIDENT: In other words, Commissioner Davide does not accept the proposed amendment?

MR. DAVIDE: No, because it will remedy only partly, not the entire concept of land reform.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:20 a.m.

RESUMPTION OF SESSION

At 10:21 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod will please proceed.

MR. MONSOD: We have arrived at a formulation here, so instead of saying "ESPECIALLY THE LANDLESS," we will say WHO ARE LANDLESS.

MR. DAVIDE: The amendment will be placed "farmworkers," so instead of "ESPECIALLY LANDLESS," it should be "WHO ARE LANDLESS?"

MR. MONSOD: Yes.

MR. DAVIDE: So, it will now read: "The State shall by law undertake an agrarian reform program founded on the basic right of farmers and regular farms WHO ARE LANDLESS to own directly or collectively. . .?"

MR. MONSOD: Yes.

MR. DAVIDE: I agree, Madam President, and there should be a comma (,) after "till" on the fourth line.

MR. RODRIGO: Madam President, just a question for clarification.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Does the phrase "WHO ARE LANDLESS" modify both farmers and regular farm workers?

MR. MONSOD: Yes.

MR. RODRIGO: Thank you.

MR. MONSOD: Maybe between the words "LANDLESS" and "to," we should put a comma (,) so that it refers to "farmworkers WHO ARE LANDLESS. . ."

MR. DAVIDE: Yes.

THE PRESIDENT: How is that now? Will Commissioner Monsod please repeat.

MR. MONSOD: Madam President, the first part of Section 5 will now read: "The State shall by law undertake an agrarian reform program founded on the basic right of farmers and regular farmworkers, WHO ARE LANDLESS, to own directly. . ."

THE PRESIDENT: Is there any other pro amendment on this first sentence so that we can on this?

Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, for the sake of our being able to explain it adequately to the people to whom we shall be explaining this, may I know how we justify the basic right of farmers and regular workers who are landless to own directly or collectively the land they till? I do not see any difficulty in saying that the farmers and farm workers have a right to some property because that is needed for dignified living. That they should have a basic right precisely to the land they till is, however, something I do not see very clearly and I would have to explain that to the people.

I see this distribution and redistribution as an exigency of the common good and, hence, instead of affirming that this is founded on the basic right of farmers and farm workers who are landless to own the land they till, I would rather say that it is "because the common good so requires it." That would be an amendment I would like to introduce in case I do not get a satisfactory explanation.

In other words, I am not against their owning directly or collectively the land they till. I think that is an imperative; I think that is necessary. What I do not see so clearly is that that action of the government should be premised on the basic right of the farmers or the farm workers who are landless to own precisely the land they till.

MS. NIEVA: So, would the Bishop suggest that the phrase "founded on the basic right of farmers" be replaced by another phrase?

BISHOP BACANI: Yes, and instead I suggest: "ON ACCOUNT OF THE EXIGENCY OF THE COMMON GOOD, the State shall undertake an agrarian reform program so that farmers and regular farmworkers, WHO ARE LANDLESS, to own directly or collectively the land they till."

MR. TADEO: Commissioner Bacani, dati itong "primacy," ngunit pumayag na rin kami sa inyong mungkahi sa isang pagpupulong ng Committee na gawin natin itong "basic right."

BISHOP BACANI: Hindi po ako ang nagmungkahi noon. Present ako, pero hindi ako ang nagmungkahi noon. Si Commissioner Monsod yata ang nagmungkahi noon.

MR. TADEO: This is what "basic right" means — it is a principle in agrarian reform whereby those who actually till the land have the supremacy to own the same in a manner that is expeditious and/or in common with others. Ang mismong nagtatrabaho sa bukid, ang magsasaka, ay mayroong pangunahing karapatan or first opportunity na magmay-ari at unang dapat makinabang sa bunga ng kanilang pagod at pawis. Ito po kasi ang pangunahing principle at objective ng agrarian reform.

BISHOP BACANI: Madam President, I do not deny that that is the principle. What I would like to know is how we will justify that principle since it is not self-evident? That is what I am trying to say. It is not a self-evident principle that they should own precisely the land they till. That they should have a primacy of right to the fruits is evident to me. That they should have also a basic right to some property is evident to me. But that they should have a basic right precisely to this land that they till is not as evident to me, and that is why I am not rejecting it as yet. I am asking for an explanation of that not self-evident principle.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: I would yield to Commissioner Monsod, Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, let me just give an example and see whether that concretizes what the Commissioner is talking about.

Let us say that Juan is tilling the land of Jose. In the case of Jose, he may be one of those small land-owners allowed to keep their land under the retention limits as Commissioner de los Reyes said today. Now, Juan still has a right to own land because he is a tiller and he is landless and, perhaps in such an instance, he would have a priority to public land that can be alienated. Is that what the Commissioner means?

BISHOP BACANI: Yes. In other words, that is it. When we say that farmers have the basic right to own the land they till, it means that is true in each and every circumstance without any exception. So that when they till a certain land and they fall within this category, then they can claim the right to own that land and there is no possibility of denying that claim whatsoever.

MR. MONSOD: This is just a trial formulation to see if it reflects the Bishop's thinking. Suppose we amend the first part of this paragraph to read: "The State shall by law undertake an agrarian reform program founded on the basic right of tillers and regular farmworkers, who are landless, to own land directly or collectively or, in the case of other farmworkers, to receive a just share of the fruits thereof."

BISHOP BACANI: It does not seem to meet what I am trying to say. Can we really, upon having put this in the Constitution, explain this? I think this is one of the instances in the Constitution where we affirm something theoretical.

MR. MONSOD: But that formulation took out precisely the phrase "the lands they till" but recognizes that a tiller who is landless has a right to own land. I am only trying to see if this is what the Bishop has in mind, but this is certainly not the position of the Committee.

BISHOP BACANI: Yes, that would be what I mean when I say that they are entitled to some land, and they are entitled even principally to the fruits of that land but not necessarily entitled to own the land they till.

MR. MONSOD: Yes, now we understand the point of the Commissioner, and maybe that is something for the Committee as a whole to consider.

BISHOP BACANI: So, may I propose that as an amendment — the Commissioner's own formulation which is a

happy one for me and which, I think, meets the exigencies of land reform.

THE PRESIDENT: I think our difficulty is with the interpretation of Commissioner Bacani that the phrase "basic right" means an unqualified and plenary right to claim.

BISHOP BACANI: Yes. In other words, when we speak of a basic right, then we have a basic right to property or a basic right to life.

MS. AQUINO: Would it satisfy the Commissioner if we find an alternative to the phrase "basic right" or to the word "right," if only to approximate that kind of a difficulty and address the problem of that interpretation?

BISHOP BACANI: Yes. I would argue for something like "a great appropriateness." After "appropriateness" I do not know how to word it. There is really a great appropriateness for them to own the land they till. Or maybe we can even speak of an imperative. That is why on account of the common good there is that imperative. I do not argue against the fact that they must own land.

MR. MONSOD: In other words, the Commissioner does not want a strict absolute correspondence between the land that is being actually tilled and the right to own by a tiller.

BISHOP BACANI: Yes, but they ought to have the right to own some land and the government must guarantee that to them.

MR. BENGZON: In other words, what the Commissioner is saying is that it does not automatically mean that they have that basic right to own the land that they specifically till.

BISHOP BACANI: Yes, that is it; not in all cases. The way it is formulated now does not seem to admit of any exception, if it is a basic right.

MR. BENGZON: We understand that now. Would the Commissioner like to propose that amendment so that the Committee can react to it?

BISHOP BACANI: Yes. May I propose the formulation of Commissioner Monsod which, I think, expresses it.

THE PRESIDENT: Commissioner Villegas desires to make some comments on this.

MR. VILLEGAS: Could I contribute some insights into the principle behind agrarian reform? In the Constitution, Article XIV, Section 13 states:

The Batasang Pambansa may authorize, upon payment of just compensation, the expropriation of private land be subdivided into small lots and conveyed at cost deserving citizens.

If we will remember, this really made constitution history because it went beyond the principle of eminent domain — that the State can expropriate lands in small lots for distribution to deserving citizens. But the principle behind this had nothing to do with the right of tillers to own the land they till. This was premised on precisely the exigencies of the common good. The social function of property which requires that in specific circumstances when political and social stability is threatened, the government or the State has, with just compensation, the right to expropriate lands.

I completely share the fears of Commissioner Bacani about stating a basic right, and I would be more comfortable if another reason were cited. I am very much in favor of giving lands to small farmers. I think that is a requirement of political, social and economic stability. But I think we are treading on dangerous grounds in articulating a certain basic right. Let us also keep in mind that there are certain countries like Taiwan which in 20 years or so, in one generation, has literally gone the full circle and is now implementing an agrarian reform

program which is exactly the opposite — they are now trying to consolidate their small farms because the common good dictates that they should not have small farms anymore.

A study of Taiwan in 1986 will show us their land reform program which is completely the opposite of what they implemented in the 1950s because they realized that the common good requires that they do not grow sugar in one-hectare properties, but should start to grow more and more in large-scale farming. We cannot constitutionalize certain provisions which are requirements of the common good today, but which 20 years from now may be completely the opposite.

That is why I am very much in favor of this provision making sure that today, in 1986, the millions of landless farmers should have land that they can till which they can call their own, but let us be very careful about constitutionalizing that kind of an exigency of the common good today which may not be an exigency of the common good in the year 2000.

MS. NIEVA: Is Commissioner Villegas proposing an amendment?

MR. VILLEGAS: Yes, I propose an expression like "because of the requirements of the common good."

MR. TADEO: Madam President, gusto ko lang pong magpaliwanag.

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. TADEO: Kung napapansin ninyo, nakalagay dito ang pariralang: "to own directly or collectively," at sinasabi ninyong nagsasaad ang "collectively" ng common good. Ngunit mayroon pang mga lupain — at batay iyan sa uri ng pananim, gaya ng mais at bigas — na kinakailangang ariin mo tulad ng tricycle upang maalagaan mong maigi. Ngunit actually hindi tayo titigil doon. Alam naman nating ang hiwa-hiwalay at pira-pirasong pagsasaka ay hindi produktibong pagsasaka. Kaya tutungo rin tayo roon sa yugto ng cooperative farming o collective farming at makakamtan din natin ang common good. Actually, hindi pa kayang tanggapin ng magbubukid sa kasalukuyan ang sama-samang pagmamay-ari, iyong sinasabi nating common good. For change to endure, the idea of the cooperative farm must come from within, not merely imposed on them.

MR. VILLEGAS: Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: The common good and collective farming are not synonymous, so there is no correspondence between the use of the common good and the advocacy for collective farming. The common good is a high principle which I suggest as an alternative to the phrase "a basic right." And definitely, as I said, I do not think we have reasons to quarrel over the final result. The final result should be that small farmers today are able to own their one-hectare, two-hectare, three-hectare lots planted to corn, coconut, cacao and other types of crops. So, there is no question about that.

MR. BENGZON: Would Commissioner Villegas agree to a formulation being made by Commissioner Monsod which will coordinate and correlate with the amendment proposed by Commissioner Bacani which states that: "IN THE PURSUIT OF THE COMMON GOOD THE STATE SHALL BY LAW UNDERTAKE AGRARIAN REFORM PROGRAM FOUNDED ON THE BASIC RIGHT OF FARMERS AND REGULAR FARMWORKERS, WHO ARE TILLERS AND LANDLESS, TO OWN DIRECTLY OR COLLECTIVELY. . ."

In other words, we inject the thought of the Commissioner to the amendment of Commissioner Bacani.

SUSPENSION OF SESSION

THE PRESIDENT: The session is suspended.

It was 10:42 a.m.

RESUMPTION OF SESSION

At 11:11 a.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, the proponents have reached a meeting of minds, so may I call on Commissioner Bacani to present the basic amendment.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, after I present my amendment, the Committee itself will explain the meaning of a very important word which we have agreed upon to make it official.

The amendment by deletion simply goes this way "The State shall BY LAW undertake AN agrarian reform program founded on the right of farmers and regular farmworkers, WHO ARE LANDLESS, to own directly or collectively the lands they till . . ."

Madam President, a very vital explanation is on the word "right" and the elimination of the word "basic." I would like that to come from the Committee itself since we already agreed on this.

THE PRESIDENT: The Chair wishes to be clarified with regard to the proposed amendment of Commissioner Bacani. In other words, it is still the same, except for the elimination of the word "basic."

BISHOP BACANI: The elimination of the word "basic" has left the word "right" being understood in looser sense than one might first construe upon seeing it. And that is why I am asking the Committee to give that explanation.

THE PRESIDENT: And is the Commissioner's proposed amendment different now from the original version that was given to us by Commissioner Monsod? We just want to clarify that.

BISHOP BACANI: Yes, Madam President, but the sense approximates that.

MR. MONSOD: Madam President, that formulation does not really mean an absolute correspondence because that "right" is also subject to the second sentence which says, "subject to such priorities, retention limits and other conditions as Congress may prescribe." However, the Committee feels that it is important to retain the words "the lands they till" because really in practice that would be the preferential route as far as identification of the land is concerned.

MS. AQUINO: Madam President.

THE PRESIDENT: Commissioner Aquino is recognized.

MS. AQUINO: The deletion of the term "basic" is best understood in the context of the proposal of Commissioners Romulo and de los Reyes, which will be an insertion of a sentence after the word "compensation." However, preliminarily, it is the Committee's position that the deletion of the term "basic" and the retention of the word "right" means that the polar star — when we expound the principle of land reform — is that the farmer has a right to the land he tills, but this is not an immutable right. In other words, his claim of ownership does not automatically pertain or correspond to the same land that he is actually and physically tilling. It would yield to the

limitations and adjustments provided for in the second sentence of the first paragraph, specifically the "retention limits" and the amendments of Commissioners Romulo and de los Reyes, which the Committee is accepting.

BISHOP BACANI: Madam President, I think that is the official sense and it translates the meaning that was sought for in the amendment before, and that is why that is presented in this form now.

THE PRESIDENT: What does Commissioner Villegas say?

MR. VILLEGAS: I accept the formulation, Madam President.

MR. MONSOD: Madam President, may we just point out two things here: In the first sentence, the Committee has already accepted the term "BY LAW" which was introduced by Commissioner Jamir; in the second sentence, we have formulated the phrase "as Congress may prescribe." This sentence is really a long sentence and even includes the consideration of whatever law Congress shall prescribe.

THE PRESIDENT: So, this is now accepted by the Committee.

MS. AQUINO: Madam President, may we request that Commissioner de los Reyes be recognized to propose an amendment.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: This is an amendment jointly being submitted by Commissioners Romulo, Monsod and Tingson. It is an additional sentence after the word "compensation," which shall read as follows: THE STATE SHALL RESPECT THE RIGHTS OF SMALL FAMILY LANDOWNERS IN THE DETERMINATION OF THE RETENTION LIMITS.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: I should like very much to support that amendment because I feel that that is very necessary in order for the small landowners of our country to feel that they are neither ignored nor their basic rights totally neglected. I understand, Madam President, that in one of the Supreme Court decisions, "small landowners" made references to the hardworking and frugal people who in a lifetime of sacrifice gathered their pitiful little savings and purchased small farms to supplement the inadequate pensions from the Government Service Insurance System or the Social Security System. So I would like to go on record that I am in favor of that amendment and I appreciate very much the privilege of being part of that amendment.

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Will Commissioner de los Reyes accept an amendment to the amendment by eliminating the word "FAMILY" — just say "SMALL LANDOWNERS." not necessarily "SMALL FAMILY LANDOWNERS."

MR. DE LOS REYES: Inasmuch as the Committee has already stated in advance that it has accepted my amendment, I would like to throw it to the Committee, although personally I have no objection to the elimination of the word "FAMILY."

THE PRESIDENT: What does the Committee say to the proposed amendment of Commissioner Regalado?

MS. AQUINO: The Chairperson initially manifested the Committee's acceptance of the amendment to the amendment; however, we wish to clarify that our reference to small landowners does not necessarily mean that

they should be owner-cultivators, according to the definition that we have adopted. In other words; small landowners here who are entitled to State protection do not necessarily refer only to owner-cultivators. However, there is one basic principle which should be respected and which we would accommodate — that the tenancy relationship be abolished. This is the basic principle of all land reform codes presently in effect.

MR. DE LOS REYES: It is in that spirit that this amendment is being offered.

MR. DE CASTRO: Madam President, may Commissioner de los Reyes answer just one question?

THE PRESIDENT: Please proceed.

MR. DE CASTRO: What does the Commissioner mean by "small landowners"? How big is the land owned?

MR. DE LOS REYES: That will be as determined by law, although at present the retention limit, I understand, is seven hectares.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: Madam President, this section would now include or extend its coverage to all agricultural lands. So, we feel that Congress will have a better opportunity to define not only limits for land but for specific types of land or crops, even perhaps suitable to different areas, because there are different conditions for different crops in different areas. We do not want to preempt Congress on this, although the intent is quite clear in the provision where we are referring to "small," and it is up to Congress to define "small" in specific instances.

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: I do understand that there is a case entitled Nilo vs. Court of Appeals, whereby the case states that "small landowners" are referred to as having 24 hectares or less. Is that true to coconut?

MR. MONSOD: Madam President, the Committee would just like to clarify that there may be cases defining "small," but since the coverage of this Article is wider than it was before, there would be need for additional congressional clarification of that point.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: The question of defining "small" in terms of absolute figures is a tricky business because it depends on the number of variables, like soil, climate, and all that. In any case, I think the provision, as formulated, provides us some criteria, and these are subject to or shall take into account ecological, developmental or equity considerations. We cannot be definite as to sizes, with respect to rice, corn or whatever crops, because these are variable, and this is proven by researches worldwide.

Thank you, Madam President.

MR. JAMIR: Parliamentary inquiry, Madam President.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: May I know from the Committee the exact meaning of the words "agricultural lands." I ask this question because our Supreme Court considers even residential lands as part of the agricultural lands. Even our

1973 Constitution divides lands into agricultural, mineral, and forest lands. So, I would like an authoritative definition from the Committee, if that is possible.

MR. TADEO: Ayon sa aklat ni Commissioner Nollado, ang Principles of Agrarian Reforms, Cooperatives and Taxation, ang definition ng agricultural land sa ilalim ng Section 166, RA 3844, ay land devoted to any growth including, but not limited to, crop lands, saltbeds, fishponds, idle land and abandoned land.

MR. JAMIR: So, the provision of RA 3844 cited by the Gentleman is a definition of agricultural lands by the Committee.

Thank you.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I heard from Commissioner Aquino that there is absolute prohibition or abolition of the system of tenancy. I know that under RA 3844, some lands devoted to rice and corn were subject to land reform, if there is a tenancy relation but not when there are farm laborers. In my opinion, Madam President, the position of a tenant, who since the time of President Quezon was given 70 percent of the produce of rice land, is better or preferable to a farm laborer who only receives a minimum wage. The tenant who receives 70 percent of the produce is, in effect, an industrial partner who contributes his labor and yet receives the greater portion of the harvest; whereas a farm laborer does not share in the productive income of the farm but is only entitled to a minimum wage.

I cannot understand why under RA 3844, there was preference for the farm laborer and discrimination against tenancy. In my opinion, the status of a tenant as an industrial partner is higher and better than a mere farm laborer who does not share in the profits of the farm but is only paid a minimum wage. So I am surprised why there should be a statement that the land reform is based on absolute abolition of the tenancy relation in preference for some farms with farm laborers. Madam President, that was the loophole in the correct implementation of the land reform program. There were certain landowners who were clever enough to make it appear that their tenants who are their industrial partners of their farm workers in the production of rice and corn were only farm laborers, and therefore, no longer subject to land reform; whereas those who acknowledge the true fact that they had tenants as their industrial partners were subject to land reform.

So, I would like the Committee to respond whether the real intention is to abolish absolutely the tenancy relation because it is a social evil, because in my opinion, a tenant has a better and a higher relation than that of a mere farm laborer.

MR. MONSOD: Madam President, we agree that there may be instances of share tenancy where the tenant might actually receive more than if he were a mere employee. However, the system of tenancy is looked upon as the source of many evils, although not necessarily evil per se. How we want to solve the situation is the phrase in the first sentence where we talk about farm workers who have a right to receive a just share of the fruits thereof. We look at this as a solution to the question on whether they really end up in a worse situation by changing the system from tenancy relation to an employee-relation because then the concept of an industrial employee will come in when that employee receives a just share of the fruits thereof. If we notice, this is a parallel clause in the subsection on Labor because in a way there is a parallel situation in those two cases.

MR. RAMA: Madam President, there is a pending amendment which has been accepted by the Committee and the proponent is insisting that it be voted on. This is the amendment of Commissioner de los Reyes.

THE PRESIDENT: We will first approve the amendment of Commissioner Bacani with respect to the first sentence.

MR. DE LOS REYES: I am not insisting. There is no objection.

MS. NIEVA: The Bacani amendment reads this way: "The State shall by law undertake an agrarian reform program founded on the right of farmers and regular farmworkers WHO ARE LANDLESS to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof."

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Before we vote on that, may I ask the proponent some questions?

THE PRESIDENT: Please proceed.

MR. RODRIGO: The ones who are covered by this sentence are farmers and regular farm workers who are landless. What is the proponent's concept of a farmer who does not own land? Is he somebody who farms another person's land? Is that correct?

BISHOP BACANI: Yes, I believe that is what the Committee and I mean.

MR. RODRIGO: Regular farm workers, who are landless, are regular workers in somebody else's farm?

BISHOP BACANI: Yes, that is also the meaning.

MR. RODRIGO: Let us say I own a farm, but instead of hiring regular farm workers, I hire planters during the planting season. Then I hire harvesters during the harvest season and I hire another group of threshers. These are not regular farm workers, are they?

BISHOP BACANI: They do not fall under the term "regular farm workers."

MR. RODRIGO: And they are not farmers?

BISHOP BACANI: Yes, in the sense given here.

MR. RODRIGO: So if I am the owner, and I want to evade this provision, all I have to do is not to hire regular farm workers.

BISHOP BACANI: That case will then have to fall under the following clause: "in the case of other farm workers, to receive a just share of the fruits thereof."

MR. RODRIGO: Yes, but those other workers are not given the right to own the land. Is that it?

BISHOP BACANI: Yes.

MS. NIEVA: That is right.

MR. RODRIGO: I was just talking to somebody from Quezon Province, and he told me that in coconut areas there are no farmers. Is this right? He said there are no farmers in coconut areas because they do not plow every year, they do not plant yearly but they just plant once and then wait for the coconut to grow. There are only coconut watchers or coconut pickers.

BISHOP BACANI: I myself would not be able to answer that. May I refer this to the Committee, Commissioner Rodrigo?

MR. RODRIGO: Yes.

MR. TADEO: Commissioner Rodrigo, kapag sinabi nating "farmer," mayroong tenancy relation na tinutukoy. Ang ibig sabihin ng tenancy relation, mayroon kang rental na ibinibigay sa iyong panginoon na may-ari ng lupa. Sa ilalim ng niyugan, kapag tayo'y naghati, ang two-thirds ay sa panginoong may lupa at one-third sa magsasaka. Ito ang tinatawag na rental na ibinigay; mayroong tenancy relation. Hindi natin puwedeng sabihin ito dahil batay dito sa isang thesis na ginawa ni Col. Virgilio David, sinasabi niya na mayroong 515,000 na tenant farmer families ang nasasangkot na mayroong sharing. Ang hatian po kasi sa niyugan, one-third, two-thirds — two-thirds sa panig ng panginoong may lupa at one-third sa panig ng tenant.

MR. RODRIGO: Samakatuwid, ang ibig bang sabihin ng "tenancy" ay "crop sharing"? Kung mayroong "crop sharing," iyan ba ang kahulugan ng tenancy? Kapag ako ang mayroong plantation ng coconut, at aalisin ko ang crop sharing . . . susuwelduhan ko lang ang mga pipitas ng niyog at wala na bang tenancy?

MR. TADEO: Wala pong tenancy. Babagsak sila sa farm workers.

MR. RODRIGO: Ngayon, sapagkat walang tenancy, ang karapatan lamang ng farm workers ay "just share." Wala silang karapatang magmay-ari noong lupa.

MR. TADEO: Ngunit kung regular ang participation ng farm workers, primary sa production.

MR. RODRIGO: Kung regular. Ngunit kung bilang may-ari ng lupa, hindi ko gagawing regular at uupa ako ngayon ng isang grupo. Sa isang taon, uupa naman ako ng ibang grupo. Hindi magiging regular. Samakatuwid, hindi babagsak sa kategoriya ng "tenancy," kayat hindi sila maaaring magmay-ari ng lupa. Ganoon po ba?

MR. MONSOD: Madam President, we are instituting here a new provision which will take effect upon ratification. In that instance, there is already a history to look at. When we say that a particular piece of land comes under the agrarian reform provisions of the Constitution, then we can also look into the history of the relationship between that owner and the farm worker as defined over the years. In other words, Madam President, that landowner may not, upon ratification, change their relationship to get around the law because, after all, there would be records on what the relationship was.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Parang maganda yata ang tanong ni Commissioner Rodrigo. Doon sa deliberations, lumabas ang punto na ang sacada ay hindi kasama sa tinatawag na "farm workers." Nabanggit ni Commissioner Rodrigo na ang principle diyan ay mangyayaring irregular — seasonal worker na maaaring palitan at mas nakakahawig ng sacada kaysa isang regular farm worker. Ito ang sinasabi niya na maaaring loophole ng ganoong provision. That is the reason why Commissioner Monsod answered that the history of the relationship should be a safeguard against this possibility of circumventing that provision of a landlord changing his relationship with the tenants upon ratification of the Constitution. I think that is an important consideration.

Thank you, Madam President.

MR. RODRIGO: Samakatuwid, ang isang halimbawa nito ay iyong isang may-ari ng coconut plantation at ang kanyang pasunod sa kanyang mga trabahador ay "crop sharing" at iyan ay ipinasiya niyang palitan at gawing suwelduhan. Halimbawang limang taon nang suwelduhan? Titingnan pa rin ba ang history? At kung bago noong nakaraang limang taon, ang pasunod ay crop sharing, his workers will come under the first category instead of under the second category. Ganoon ba?

BISHOP BACANI: In that case, there would be no practical difference because if they escape the term "farmers" they would, under that circumstance, fall under regular farm workers.

MR. RODRIGO: If there is crop sharing.

BISHOP BACANI: No, if there is no crop sharing and they are paid for coming regularly, they would fall under the category of regular farm workers.

MR. RODRIGO: Pero ang sinasabi ko nga, kung ako ay nagbabayad lamang ng pipitas, hindi ako kukuha ng mga regular na pipitas. Madali naman ang pumitas ng niyog. Kayat kukuha ako ng iba't ibang tagapitas nang hindi maging regular ang mga ito.

MR. MONSOD: I think the example of the Commissioner regarding workers who have been seasonal workers for the past five years would fall under the second part where they are entitled to receive a just share of the fruits.

MR. RODRIGO: Yes.

MR. MONSOD: If upon ratification of the Constitution a change in the relationship of a regular farm worker is made, it is quite obvious in that instance that the intent is to go around the law and, therefore, the facts would speak for themselves.

MR. RODRIGO: Suppose, before ratification, nabalitaan doon sa Quezon na mayroong pinag-uusapang probisyon ang Con-Com, maaaring bago ma-ratify ang Constitution ay papalitan nila ang pasunod sa mga trabahador nila. At hindi lang iyan, sinabi sa akin ni Ginoong Quintana, ex-Batasan MP, na maaaring kumampanya silang huwag aprubahan ang Constitution sa Quezon Province. Iyan ay isipin din natin.

MR. MONSOD: Yes.

MR. RODRIGO: Narinig ni Commissioner Ople. Nandito si Ginoong Quintana kangina.

MR. MONSOD: We realize, Madam President, that there will be some gray areas here. There will always be gray areas when we come out with an Article like this. With respect to the concerns of ex-Batasan MP Quintana, one reason why the Committee is willing to accept the amendment of Commissioner de los Reyes is that we are hoping that that would solve some of his concerns.

MR. RODRIGO: There is another thing which I want to clarify. Do we mean to say that "crop sharing" is identical with the word "tenancy," that whenever there is "crop sharing," there is "tenancy"?

THE PRESIDENT: Will Commissioner Tadeo answer that question?

MR. RODRIGO: Is "tenancy" synonymous with "crop sharing"? In many advanced countries of the world, even in the United States, there is crop sharing. If we now say that crop sharing means tenancy, that would not be fair because crop sharing is unlike tenancy.

MR. TADEO: Kung mayroong crop sharing, ay mayroong tenancy relation.

MR. RODRIGO: Kahit doon sa atin sa Bulacan ay mayroong tinatawag na "hunosa sa gapas, hunos sa tanim." Ang mga gagapas, sa halip na bayaran ng salapi ay mayroong natatanggap na hunos. At ang mga nagtanim, sa halip na bayaran ng salapi, mayroong hunos sa tanim. Kapag umaani binibigyan sila ng kaunting kaparte sa ani. Samakatuwid, nagkakaroon ng crop sharing. Ang ibig bang sabihin niyan ay iyong mga gumapas at iyong mga nagtanim ay mayroon ng tenancy relation?

MR. TADEO: Iyon pala ang ibig ninyong sabihin kangina.

MR. RODRIGO: Hindi. Isang halimbawa lang iyan, mayroon pang iba.

MR. TADEO: Tama po iyan. Hindi ko lang kasi nakikita kung ano iyong iniisip ninyo tungkol sa crop sharing. Tama po iyong mga hunos at gapas at giik sa atin. Kamukha sa atin sa Bulacan, sa isang daan at dalawampung anihin, labing-apat ang ibinibigay sa manggagapas at anim na kaban sa gumigiik. Hindi po iyon ang ibig kong sabihing crop sharing. Ang ibig ko pong sabihin ng crop sharing na tinugon ko po sa inyo kangina ay iyong binibigyan kita ng rental. Hindi po iyon ang ibig kong sabihin kangina. Seasonal po iyon; iyon ang tinatawag naming mga hired laborers.

MR. OPLE: Madam President.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: I wanted to put a question to Commissioner Rodrigo, and, perhaps, also to the Committee, depending on his answers. There is no necessary correlation between tenancy and crop sharing, depending on how you define crop sharing.

Dito po sa palayan at maisan ngayon, ang nakakaraming nabiyayaan ng reporma sa lupa ay hindi iyong tumanggap ng CLT na titulo. Iyon siguro ay mga labinlimang porsiyento lamang. Iyong walumpu't limang porsiyento, iyon ang mga dating tenants na ngayon ay nauwi sa leasehold. Mayroon ding matatawag na sharing iyan — 75-25. Datapwa't ang kaibahan, itong dating tenant, bagamat hindi siyang may-ari, siya ngayon ang complete manager ng kaniyang sinasaka. Samakatuwid ay hindi na tenant pero nagbabayad pa rin ng katumbas ng dalawampu't limang porsiyento noong ani. Iyong leasehold, sa aming paningin, mas mataas ang naging antas ngayon kaysa doon sa magsasaka lamang.

MR. RODRIGO: Sang-ayon ako rian, sapagkat ang inam noong "leasehold" ay ang ibinabayad na buwis ng magsasaka ay eksaktong halaga. Kayat, pag pinalaki niya ang ani noong kaniyang bukid, lahat ng madadagdag na ani ay kanya na. Hindi katulad ng "crop sharing." Nadagdagan ang ani, nadagdagan din ang kaparte ng may-ari. Pero sa leasehold may tiyak na ibabayad.

Kapag nadagdagan ang ani, pag nagmasipag magsasaka, nagtanim ng vegetables, nagtanim ng mga bagay sa lupa, ang lahat ay kanya.

MR. OPLE: Hindi lang iyon, kundi lahat ng management decision ay nasa kamay ng nasa leasehold. Hindi katulad ng tenant na mayroong katiwalang araw-araw ay nag-uutos sa iyo kung ano ang gagawin mo. Samakatuwid, itatanong ko lamang sa Komite, ito bang leasehold bilang isang uri ng land tenure ay kabilang dito sa agrarian reform na ating pinag-uusapan?

MR. TADEO: Magandang katanungan, Commissioner Ople. Gusto ko lang liwanagin ang ibig sabihin ng tenancy — iyong 50-50, 60-40, 55-45, 70-30. Ito hong leasehold ay kasama rito sa ating pinag-uusapan dahil sa sinasabi nating retention limit, lalo na iyong hindi owner-cultivator, na nilinaw kanina ni Commissioner Aquino. Halimbawa, sabihin natin na ang gamitin natin ay ang P.D. No. 27, na ang seven hectares below ay maaaring iwan sa isang panginoong may lupa. Kaya iyong maiiwan sa kanya na seven hectares and below ay under leasehold system, kaya kasama rito ang leasehold system, dahil doon sa abolition ng share tenancy.

MR. OPLE: Magandang balita iyan para sa maraming mga tenants ngayon na ang unang hakbang sa kanilang liberasyon marahil ay hindi iyong tahasan o tandisan na siyang magiging may-ari ng lupa, kung hindi maaaring nandiyan sa intermediate stage, sa kalagitnaan na leasehold muna; hindi siya ang may-ari, datapwat siya ang may poder, siya ang manager, siya ang nagdedesisyon tungkol sa kanyang buhay.

Salamat po, Ginang Pangulo.

MR. RODRIGO: Thank you very much, Commissioner Ople. Now, just one more question. I had already asked this cursorily in a past session. I refer to the word "own" which I consider a very important word. I would not want to raise false hopes among our farmers. Ownership, as it is defined now in civil law, has different rights attached to it: jus possidendi, the right to possess; jus utendi, the right to a use; jus fruendi, the right to the fruits; and jus disponendi, the right to dispose . . . I would discard jus abutendi or the right to consume the thing by its use, because it is anti-social. But then since we say that the farmers will own the land they till, can they dispose of it or can they sell it?

MS. AQUINO: To the best of my knowledge, all of the laws pertaining to the implementation of land reform as a policy of the government would program and limit the right of a beneficiary-farmer who has been given an Operation Land Transfer or a certificate of land transfer and would have delimited options in immediate disposition of the property. Even with the Homestead Act, one is not allowed to dispose a homestead that has been granted to him within a period of 50 years from the period or from the time it was granted. It may be a question of programming or regulating or delimiting prerogatives of disposition. It is provided by law.

MR. RODRIGO: In other words, may Congress limit the farmer's right to sell, to dispose, even to mortgage the land?

MS. AQUINO: Yes.

MR. RODRIGO: Another right is the right to bequeath. We know that we have close family ties in the Philippines. Many people work and they try to have a parcel of land for the security of their children. Let us say that a farmer obtains under this land reform program a 2-hectare land. He has five children. The farmer dies. Will his five children inherit the land?

MR. TADEO: Maaaring manahin.

MR. RODRIGO: Ng lima niyang anak?

MR. TADEO: Hindi po. Ngunit ang batayan po kasi nitong land fragmentation ay ang economic family-size farm; hindi mo ito napapasabog. Hatiin mo, halimbawa, sa lima mong anak ang matitira dito; sabihin nating .5 hectares o 5,000 square meters lamang. Hindi na iyan makasasapat sa kanyang pamilya. Ang tunay na intensyon ng agrarian reform program, kapanabay nito ang pagtutulak ng national industrialization, ay ang sobrang lakas-paggawa na papasok sa industriya para mapanatili ang economic family-size farm.

MR. RODRIGO: So, this is another limitation on the ownership, should this proposal be approved as a constitutional provision. Congress can then place limits on the right of the heirs to inherit from the farmer who will be benefited by this provision.

Now, just one last point. May he transform a portion of the land which is agricultural to a residential lot?

MR. TADEO: Under RA 1199, ang isang ektaryang sinasaka ay nagkakaloob ng 300 sq. m. na home lot.

MR. RODRIGO: So, does Congress also have the discretion on this matter?

MS. AQUINO: Yes.

MR. TADEO: Hindi maaaring subdivision, maaaring magkaroon siya ng home lot o lupang tirahan.

MR. RAMA: Madam President, this first sentence in Section 5 has been sufficiently discussed. May I ask that we take a vote on it.

THE PRESIDENT: Is there still need to read it again?

MR. RAMA: There is no more need to do so. We have read it several times.

VOTING

THE PRESIDENT: Those who are in favor of the proposed Bacani amendment to the first sentence of Section 5, please raise their hand. (Several Members raised their hand.)

Those who are against, please raise their hand. (No Member raised his hand.)

The results show 30 votes in favor, none against; the amendment is approved.

MR. RAMA: Madam President. There are still proponents ahead of Commissioner de los Reyes, but Commissioner de los Reyes is requesting that his amendment which has been accepted by the Committee be voted upon before we take up the other amendments.

THE PRESIDENT: Will Commissioner de los Reyes please read his proposed amendment.

MR. DE LOS REYES: As an additional sentence to Section 5: THE STATE SHALL RESPECT THE RIGHTS OF SMALL LANDOWNERS IN THE DETERMINATION OF THE RETENTION LIMITS.

VOTING

THE PRESIDENT: Those who are in favor of the de los Reyes amendment, please raise their hand. (Several Members raised their hand.)

Those who are against, please raise their hand. (No Member raised his hand.)

The results show 36 votes in favor and no vote against; the amendment is approved.

BISHOP BACANI: Madam President, just for the record, I think Commissioner Villegas should be a co-sponsor of the amendment I presented.

MR. RAMA: Madam President, on the same second sentence of Section 5, I ask that Commissioner Treñas be recognized.

THE PRESIDENT: Commissioner Treñas is recognized.

MR. TREÑAS: Madam President, may I propose an amendment to the last part of Section 5 which says: "and subject to a just and progressive system of compensation." I propose to eliminate "and progressive system of" so that it will read: "and subject to a just compensation."

Madam President, in almost all the provisions of the Constitution, especially in the Bill of Rights, we have uniformly used the words "just compensation." In case private property is taken for public use, we use the words "just compensation." In jurisprudence, it has been interpreted by the Supreme Court in a lot of cases. However, it seems strange that in this provision on agrarian reform, in which a property of a landowner is taken and given to farm workers, just compensation will be qualified by the words "progressive system." This may cause again a lot of legal complications as to the proper interpretation of "progressive system" and will delay the payment of just compensation.

MR. MONSOD: Madam President.

THE PRESIDENT: Commissioner Monsod is recognized.

MR. MONSOD: When the Committee decided to include the word "progressive," we intended it to be an

explanatory adjective to market. The phrase "just compensation" is supposed to be based on market prices, but we also wanted that the market price of bigger tracts of land be made lower per square meter than smaller tracts of land. That was the idea behind it. It has nothing to do with the manner of payment. By no means does it have any allusion to the payment of 10 percent down or 90 percent to be paid later on. It was only in the context of reflecting the market reality of real estate transactions.

If the honorable Commissioner is willing to accept that kind of interpretation, that this reflect the fact that bigger tracts of land usually are priced at a lower price per square meter, then that may not be necessary in this sense. We just want to get away from a purely market price and to refine it in that sense.

MR. TREÑAS: Even in that sense, it will still end in "just compensation," without the use of the words "PROGRESSIVE SYSTEM."

My purpose here is to simplify and use it uniformly because in the Bill of Rights, we used the words "just compensation." However, to that extent, why add "PROGRESSIVE SYSTEM"? So it will have a more uniform interpretation, we eliminate "PROGRESS SYSTEM."

MS. NIEVA: Yes, maybe the explanation give economist Mahar Mangahas might help. He said that all that this implies is that the compensation formula should be progressive in the sense that income taxation is progressive; that is, the proportion of the landowners' sacrifice should be greater, the larger the size of the landed estate. For example, if the purchase price is P20,000 per hectare for the first 10 hectares, then it could be reduced to P15,000 per hectare for the next 10 hectares; and P10,000 for the next 10 and hectares so on.

MR. TREÑAS: I agree with that. That is still just compensation.

MR. MONSOD: Yes. In other words, the "PROGRESSIVE" does not qualify the word "just," but rather the word "compensation." So, it would still resolve in a "just compensation." Maybe this is an important point that we would like the body to vote on, whether it should still be included or subsumed in the word "JUST."

MR. TREÑAS: From the explanation of the Committee itself, it seems that the phrase "JUST AND PROGRESSIVE SYSTEM" is not necessary because it is included in "just compensation," and this may just cause complications later on, especially since we have been using the words "just compensation." That my purpose here.

MR. MONSOD: Yes. Madam President, may we ask the body's judgment on it. I think the proponent has already explained, and so does the Committee.

MR. TREÑAS: Yes. The only amendment eliminate "PROGRESSIVE SYSTEM OF" and make it "JUST COMPENSATION" to make it simpler.

MR. RODRIGO: Madam President.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: We discussed earlier the idea of a progressive system of compensation and I must admit, that it was before I discussed it with Commissioner Monsod. I think what is confusing the matter is the fact that when we speak of progressive taxation, the bigger the tax base, the higher the rate of tax. Here, what we are saying is that the bigger the land is, the lower the value per square meter. So, it is really regressive, not progressive.

MR. MONSOD: Yes, Madam President, it is true. It is progressive with respect to the beneficiary and regressive with respect to the landowner.

FR. BERNAS: But is it the intention of the Committee that the owner should receive less than the market value?

MR. MONSOD: It is not the intention of the Committee that the owner should receive less than the just compensation.

FR. BERNAS: In what way, therefore, is it beneficial to the buyer if the owner will not get less?

MR. MONSOD: As we said earlier, it was only meant to reflect the market reality that in bigger tracts of land, the cost per square meter goes down. Since the priority of the land reform really starts from bigger tracts of land, there would be benefits to farmers, if the bigger tracts of land are first covered by the land reform program.

FR. BERNAS: I am not sure that the word "progressive" helps.

MR. MONSOD: We agree, Madam President.

FR. BERNAS: Because if the idea of a "progressive system" is that the buyer should actually pay less, but somebody else makes up for the difference, like the State, then it is clearly progressive in that sense for the tenant, and it is also just for the owner.

MR. MONSOD: Yes, Madam President, yesterday we answered that question in which we said that just compensation to the landowner does not necessarily mean that the full payment will come from the beneficiary, because in some cases, the State has to step in to make up the difference between what the farmers can afford and what is just compensation to the landowner.

FR. BERNAS: If the meaning calls for a kind of subsidy from the State, rather than use the word "progressive," it is probably better to use a different expression clarifying the fact that this may involve subsidy by the State.

MR. MONSOD: Yes, Madam President, in fact, we were saying that we want the body to decide because it may not be completely necessary at this point.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, I just would like to express the same sentiment. As an economist, I find the word "progressive" really ambivalent in that specific context. When we say "progressive" in economics, it really means the principle of giving more in law to those who have less in life, but somehow it does not capture this specific meaning in the phraseology that is used. I would use another word, or just delete "progressive."

MR. MONSOD: Madam President, the Committee is also willing to consider an amplification of the ideas of Commissioner Bernas, that in some cases the State may have to step in to make up the difference between just compensation to the landowner and affordable cost to the farmer.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: May I ask that Commissioner Concepcion be recognized.

THE PRESIDENT: Commissioner Concepcion is recognized; afterwards we will recognize Commissioner Rodrigo.

MR. CONCEPCION: Thank you.

I think the thrust of the amendment of Commissioner Treñas is that the term "just compensation" is used in several parts of the Constitution, and, therefore, it must have a uniform meaning. It cannot have in one part a meaning different from that which appears in the other portion. If, after all, the party whose property is taken will

receive the real value of the property on just compensation, that is good enough. Any other qualification would lead to the impression that something else other than that meaning of just compensation is used in other parts of the Constitution.

Thank you.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: I was about to say what Commissioner Concepcion said. I just want to add that the phrase "just compensation" already has a definite meaning in jurisprudence. And, of course, I would like to reiterate the fact that "just compensation" here is not the amount paid by the farmers. It is the amount paid to the owner, and this does not necessarily have to come from the farmer. The State should subsidize this and pay a just compensation to the owner and let the tenant pay the State in accordance with the capacity of the farmer. If there is a difference, let the State subsidize the difference. So, I support the amendment of Commissioner Treñas.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: May I propose a substitute amendment to read: "just, AND WHERE NECESSARY, STATE-SUBSIDIZED compensation."

THE PRESIDENT: Does Commissioner Treñas accept the proposed amendment of Commissioner Bernas?

MR. TREÑAS: May I have it again?

FR. BERNAS: It will read: "and subject to a JUST, AND WHERE NECESSARY, STATE-SUBSIDIZED COMPENSATION."

MR. TREÑAS: I accept.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: May I propose an amendment to the amendment? The amendment will read: "just compensation WHICH MAY BE SUBSIDIZED BY THE GOVERNMENT."

FR. BERNAS: The sense is, it must be just to the owner.

MR. TREÑAS: Precisely.

FR. BERNAS: The owner should get the full market value. But then we have to make a provision as to where the payment will come from.

THE PRESIDENT: Will Commissioner Davide repeat his proposed amendment?

MR. DAVIDE: So, it would be: "just compensation, WHICH MAY BE SUBSIDIZED BY THE GOVERNMENT."

MR. OPLE: Madam President.

THE PRESIDENT: Is there any other idea?

Commissioner Ople is recognized.

MR. OPLE: Yes. I object to constitutionalizing the subsidy. It is a power inherent in the State. The commitment to

agrarian reform as a central policy of social justice is very imperative. And I think constitutionalizing at this point an obligation of the State to subsidize purchases of lands under the land reform program might be taken as a mandate to fund all aspects of this program with taxpayers' money, even if a little more imagination in planning and skillful implementation could save the people lots of money. Instead of giving a fiat right here in this Article, that the National Treasury ought to be opened all the way in order to subsidize the difference in costs, I think just compensation to the landowner need not mean government subsidy. If subsidized compensation would become a built-in fiat in this Article, it will be made the rule rather than the exception. In the nature of the real world in which a government functions, it will tempt every land reform planner to begin by saying that the State must subsidize this.

Thank you, Madam President.

MR. RAMA: Madam President, Commissioner Regalado would like to be recognized.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Madam President, I propose an amendment to the proposed amendment of Commissioner Treñas. I support him in his statement that the words "just compensation" should be used because it has a jurisprudentially settled meaning, instead of putting in other ambivalent and ambiguous phrases which may be misconstrued, especially considering the fact that the words "just compensation" appear in the different parts of the Constitution. However, my proposed amendment would read: "subject to THE PRIOR PAYMENT OF JUST COMPENSATION." Let me explain. The purpose of this land distribution scheme is that those whose properties may be under land reform may be thereby placed in a position after they have relinquished a portion of their property to invest in other gainful occupation. That was one of the purposes mentioned by the Committee. If we just provide for payment of just compensation without stating at what particular time that payment should be made, what happens to the landowner who has now been dispossessed of his property? Where can he make investments since he has not been given payment? We are aware of the Land Bank bond wherein the amount is realizable only after the lapse of 20 years. It cannot even be used to pay PNB or DBP loans; it can only be used to pay taxes.

Furthermore, it is also established in jurisprudence, in the case of Commissioner of Public Highways vs. San Diego, L-30098, February 18, 1970, that where a property has already been thereby condemned — I used the word "condemned" in the sense of expropriation, because that is the other term — even if there is already an award, such an award, even by a judicial order, is not realizable upon execution; so the poor landowner will just have to wait patiently until such time as Congress appropriates the amount.

In the case of Commissioner of Public Highways vs. San Diego, it was specifically stated that the judgment rendered requiring payment of the award determined as just compensation for the condemned property, and as a condition precedent for the transfer of the title to the government, cannot be realized upon execution, as the legislature must first appropriate the amount over and above the provisional deposit.

So, my question here is: If we do not require prior payment, what happens to the landowner now? Must he wait indefinitely? While in the meantime we have given priority to the landless, we have created another problem for the erstwhile landed gentry since they cannot, in any way, use either the property or the supposed proceeds from the property of which they were dispossessed. If the landless have rights, even the landed also have rights; or, as Clarence Darrow says, "Even the rich also have rights."

We are not talking about the rich here. He is already parting with his property, and yet we go into an ephemeral, indefinite statement, "subject to the payment of just compensation." And the question is: Where in point of time

will that compensation be made? That is why I ask that this amendment be accepted subject to the prior payment of just compensation.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: There is no need to get excited, Madam President, because the Committee is not insensitive to the needs of the landowners. When the Committee placed this paragraph or statement here, it was the sense that the landowner would be immediately paid the just compensation. Otherwise, that compensation would not really be just at all.

And apropos of this, I would like to ask a question of Commissioner Ople in the remarks that he just made — that when he objected to the constitutionalization of the State subsidy, I hope he did not mean that the State would not in any case at all come to the rescue of the farmer where necessary and pay the landowner in the event that the farmer is unable to pay the just compensation.

MR. OPLE: Madam President, I think I made my meaning clear that subsidies may be necessary to make up the difference in price so that the landowner may be justly compensated. But, at the same time, subsidy must always be a policy of last resort. And I think the less that is said about it, the better so that it does not become an open invitation in the future to potential confabulators. We know all about some of these scandals in land pricing. It is very easy for a government bureaucrat and a landowner in Mindanao to fix a price so that both of them will gain at the expense of the taxpayer.

So, I am not against subsidy from the State. What I am saying is that this should be a last resort and it is amply covered by all the existing laws. May I remind Commissioner Bengzon that just the other day P29 billion was allocated as government subsidy to a few government banks which are government financing institutions like the PNB and DBP in particular. This P29 billion is bigger than the budget of the Ministry of National Defense, the entire Armed Forces, the Ministry of Health and the Ministry of Education, and I suspect that we have to subsidize from pure taxpayers' money these several financial institutions because we have been faced with a fait accompli. This has been going on for some time because there is no curb on it.

And so, I agree that we subsidize the purchase of lands, but to raise it to the level of a constitutional mandate, I would have serious scruples about that.

Thank you, Madam President.

FR. BERNAS: Madam President.

MR. TADEO: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Just one statement.

MR. TADEO: Sandali lang po, Madam President. Tungkol sa pagbabayad ng lupa, gusto ko po lamang na malaman ninyo ang panig ng magbubukid.

Sa ilalim ng RA 3844, on the rights of preemption and redemption, ang pinagbabatayan ditong naaprubahan noong August 8, 1963 — kaya naman monumental ang araw na ito — ay reasonable capacity of the farmer to pay. Sa ilalim ng P.D. No. 27, ang naging halaga ng lupa per hectare ay P7,000 to P8,000 plus 6 percent interest for 15 years of equal annual amortization, inabot na ng P15,000 at huhulugan pa iyan for 15 years. Nandiyan ang Minister of Agrarian Reform at ano ang sinasabi niya? Nine percent lamang ang nakabayad.

Sana ang inyong mga mungkahi ay hindi magpabigat sa aming mga magbubukid kung hindi magpapagaan. Iyon lamang ang pakiusap ko sa kagalanggalang kong mga kasama.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: Madam President, two points only. First, after listening to the observations of Commissioner Ople and on the understanding that it does not exclude the possibility of subsidy, I would gladly remove that because I also want to avoid a situation where we make acquisition of land so easy that, in effect, it may encourage the inefficient use of resources. So, provided that it is understood that we are not excluding subsidy whenever it is necessary, then I would be willing to limit the matter to the phrase "just compensation."

MS. NIEVA: Madam President, the Committee accepts.

THE PRESIDENT: Will the Committee please allow Commissioner Bernas to finish his statement?

FR. BERNAS: My second point is: I would object to the addition of the phrase "PRIOR COMPENSATION" because even if one looks at existing jurisprudence on expropriation, there is no requirement of immediate, prior compensation. Just compensation simply requires that there is an assurance that compensation will be given. Jurisprudence has not required prior compensation. So, if at this stage when we are trying to do something for the underprivileged, we make expropriation more difficult, then again we will be retrogressing.

Thank you, Madam President.

THE PRESIDENT: The original amendment of Commissioner Treñas stands.

MR. TREÑAS: And it has been accepted.

MS. NIEVA: Yes, the Committee has accepted the Treñas amendment.

MR. TREÑAS: I am very grateful to the Committee.

Thank you very much.

MR. MONSOD: Madam President, may we just read the phrase as now accepted by the Committee?

THE PRESIDENT: Please proceed.

MR. MONSOD: The phrase shall read: "and subject to the payment of just compensation."

VOTING

THE PRESIDENT: We will vote on this first, and then later on, if Commissioner Regalado insists on his amendment of inserting the word "PRIOR," we will vote on that later.

As many as are in favor of the Treñas amendment, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 39 votes in favor and none against; the amendment is approved.

As many as are in favor of inserting the word "PRIOR" . . .

MR. REGALADO: Before we do that, Madam President, may I just explain?

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: It is not correct to state that jurisprudence does not require prior payment. Even the recent presidential decrees of the President always require a partial deposit of a certain percentage and the rest by a guaranteed payment. What I am after here is that, as Commissioner Bernas has said, there must at least be an assurance. That assurance may be in the form of a bond which may be redeemable later. But to say that there has never been a situation where prior payment is not required, that is not so even under the Rules of Court as amended by presidential decrees. Even the government itself, upon entry on the land, has to make a deposit and the rest thereafter will be guaranteed under the judgment of a court, but which judgment, as I have pointed out, is not even realizable by executory process. Here is the government coming in now. Does it mean to say that the government can take its own time in determining when the payment is to be made? At least simultaneously, there should be an assurance in the form of a partial payment in cash or other modes of payment, and the rest thereof being guaranteed by bonds, the issuance whereof should be simultaneous with the transfer. That is my only purpose in saying that there should be prior payment — not payment in cash physically but, at least, contract for payment in the form of an assurance, a guarantee or a promissory undertaking.

THE PRESIDENT: Will Commissioner Regalado please restate his proposed amendment?

MR. REGALADO: The proposed amendment will read: "and subject to THE PRIOR PAYMENT OF just compensation."

THE PRESIDENT: It was accepted by the Committee.

MR. REGALADO: The word "PAYMENT" there should be understood in the sense that I have explained that there must at least be an assurance on the part of the government.

FR. BERNAS: Madam President.

THE PRESIDENT: Commissioner Bernas is recognized.

FR. BERNAS: I must say, I did misunderstand Commissioner Regalado. I read him as requiring prior full compensation. But if the intention is merely to maintain what obtains now, mainly, that it is enough that there is a partial deposit as it exists under existing law, I would agree with him that that is fine. But then I would still oppose putting it down in writing by itself because it can be construed as requiring prior full compensation.

THE PRESIDENT: What does the Committee say?

MR. REGALADO: Madam President, Commissioner Bengzon has just told me that anyway those remarks are already in the Record. And my remarks, according to Commissioner Bengzon, have been taken into account and have been accepted in the sense in which they were intended. Then, provided it appears in the Record that that is the purpose of the amendment and such explanation in the Record shall stay, I withdraw the proposed amendment to the amendment.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: If the withdrawal is based on what was supposedly agreed with the Committee, I will still object because we will have the concept of just compensation for the farmers and the farm workers more difficult than those others in cases of eminent domain. So, we should not make a distinction as to the manner of the exercise of eminent domain or expropriations and the manner that just compensation shall be paid. It should be uniform in all others because if we now allow the interpretation of Commissioner Regalado to be the concept of just compensation, then we are making it hard for the farmers and the farm workers to enjoy the benefits allowed them under the agrarian reform policy.

MR. BENGZON: Madam President, as we stated earlier, the term "just compensation" is as it is defined by the Supreme Court in so many cases and which we have accepted. So, there is no difference between "just compensation" as stated here in Section 5 and "just compensation" as stated elsewhere. There are no two different interpretations.

MR. MONSOD: Madam President, may we also state that we have accepted the opinion or interpretation of Commissioner Bernas, that the State may, in some cases, have to step in to make up the difference. So, it does not necessarily follow that these will hurt the farmers.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Madam President, I would like to pose what I consider an important question for the Committee to answer, because we have practically approved the whole section already. When we speak of the right of farmers, farm workers, the landless, etc., are they obliged to exercise that right? Shall they be compelled to exercise that right or does it mean that they are free to use or not to use the land?

MS. NIEVA: That is right. We feel that this is their right, but this is a right that they may waive if they prefer to do so. They are not obliged to avail of that right. It is there.

MR. OPLE: Madam President.

MR. DAVIDE: Madam President.

MR. OPLE: Is that the official interpretation of the Committee?

MS. NIEVA: Yes.

MR. OPLE: May I point out that under the Labor Code, the rights may not be waived by the workers.

MR. BENGZON: The Labor Code has to give way to the constitutional provision in this case.

MS. NIEVA: Yes, because the farmers may not want to exercise their right.

MR. OPLE: Because this interpretation can actually legitimize in advance various pressures so that the farmers will not exercise the right that the same Constitution now purports to give them. I think it is a dangerous interpretation, Madam President.

MR. RAMA: Madam President.

MR. COLAYCO: Madam President.

THE PRESIDENT: Commissioner Colayco is recognized.

MR. COLAYCO: The exercise of this right by the farmers involves assumption of obligations.

MS. AQUINO: Yes.

MR. COLAYCO: Obligations which he may either not be in a position to pay or may not wish to assume at all. So, I agree with the conceptual thinking expressed by the Committee.

MR. OPLE: Madam President, may I point out that the reason we are building certain innovations institutionalizing people's participation at various levels of the agrarian reform is precisely to insure that these rights will become effective and that they will, in fact, be exercised, especially considering the realities in many parts of our countryside where all the social structures are stacked up historically against the exercise of these rights. We may have it in the law but the day-to-day social pressures will make it impossible for many of the

beneficiaries to exercise these rights or even to invoke them unless there are countervailing means of enabling them to exercise these rights. And if the position of the Committee now becomes official, these rights can be waived because the obligations may be declined. I think we are treading on a dangerous borderline that may be self-defeating in the end. But I leave these all to the Committee.

The other point I want to make is whether or not the Committee accepts the fact that the reason why in most countries land reform programs have been successful is because of newly liberated resources from land reform; that is, the new capital made available to expropriated landowners have been turned into fuel for industrialization. This was what happened in Taiwan. Within five years of the land reform program, \$2 billion (Taiwan) was released for the industrialization of Taiwan and, therefore, there was some synergy at work in a land reform policy. It helped the farmer; the social purposes were met but, at the same time, the need for economic development and accelerated industrialization were also met with the same weapon.

And so, I would like to alert the Committee with my intention to propose a brief amendment under the same section which would try to optimize these resources locked up in the land but which will be released as a result of the land reform policy for industrialization.

Thank you.

MS. AQUINO: Madam President, for the Committee.

MR. RAMA: Madam President, I think we should allow the Committee members to eat first so they can be able to answer correctly the questions from the Members.

THE PRESIDENT: Commissioner Aquino desires to reply. Can we listen first to Commissioner Aquino?

MS. AQUINO: Yes, Madam President. The Committee would like to clarify and eliminate the cobwebs that are presented so far.

For clarification, the concept and the mandate of social justice in the land reform program do not amount to a compulsion to the farm workers to assume obligations which they are not prepared to assume. In other words, the compulsory effect is to compel cooperation from the landowner. The element of compulsion works against the landowner, but not against the farmer or the intended beneficiary of the program. The right to waive is not recognized when it amounts to a waiver in favor of another. Surely, we will recognize the freedom of choice pertaining to the worker, on whether or not he is willing to assume the obligation.

I hope that clarifies the conceptual variance.

MR. RAMA: Madam President.

MR. OPLE: The interpretation is acceptable to me in the light of the freedom of choice that we have, but the caveat I have made in the real world, I think, is very real as well, and I will be grateful if the Committee can take that into account.

SUSPENSION OF SESSION

MR. RAMA: It is already twelve thirty-seven, Madam President; I move that we suspend the session until two-thirty.

THE PRESIDENT: The session is suspended until two-thirty in the afternoon.

It was 12:37 p.m.

RESUMPTION OF SESSION

At 2:47p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, on the issue raised by Commissioner Ople, Commissioner Nolledo would like to have two minutes to comment on that issue of the waiver of rights by the farmers.

THE PRESIDENT: Commissioner Nolledo is recognized.

MR. NOLLEDO: Thank you, Madam President.

I would like to make a few remarks on the statement of the Committee that the rights under the land reform program are subject to a waiver. Madam President, I join Commissioner Ople in his opinion that the members of the Committee in making that statement are treading on dangerous grounds. The land reform program is societal in nature, that it is demanded by the imperative need to diffuse property ownership as a matter of national and public policy. If we adopt the general rule that the rights under the land reform program of the government are subject to waiver, then we will open the avenue towards circumvention thereof by the landlords in many subtle ways. So, I will agree to the statement of the Committee that we cannot compel a tenant to assume obligations or to avail of the benefits afforded by the land reform program, if that statement is given a restrictive meaning, because if the tenant does not avail of the benefits and rights under the land reform program, then he will forfeit his right and his share should accrue to other beneficiaries of land reform.

So, I think, the general rule is that the benefits and rights under the land reform program of the government should not be subject to waiver, because the land reform program is grounded on public policy. Otherwise we will have what is known as unique influence. The landowners may put their minds over the minds of the tenants whose intelligence may not be at par with the landowners, so they have many ways of threatening the tenants to make the waiver for a consideration. And these tenants are poor. They do not enjoy financial capacity. They may be paid, for example, P5,000 to sign deeds of waiver. And if we adopt the statement of the Committee in this sense. I am sorry to say that the land reform program of the government will be completely negated.

Thank you very much, Madam President.

MR. LERUM: Madam President, may I be recognized?

THE PRESIDENT: Please proceed.

MR. LERUM: As a member of the Committee, my understanding is that the provision does not contemplate a waiver but that the tenant may not want to exercise his right. That is its meaning. In other words, while we provide here that the tenant has a right to own, but if he does not want to buy, why should we force him to buy if, for example, he does not have the means to do so? As a member of the Committee, that is my understanding. There is no waiver, but the tenant may not want to exercise his right. There is a big difference between a waiver and not wanting to exercise a right. For example, under the Constitution, there is a provision there that says that the workers have a right to form unions. But there are many workers who do not want to form unions. We are not forcing them. They have that right but they do not only want to exercise that right. So, my understanding, as a member of the Committee, is that it is not a waiver but not wanting to exercise a right granted to them.

MR. RAMA: Madam President, I ask that Commissioner Sarmiento be recognized to amend the second sentence of Section 5.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, my amendment is an amendment by deletion. I move that we delete the words "priorities" and "and other conditions as Congress may prescribe." May I briefly explain my amendment? It is my humble submission that the inclusion of these words will seriously impair the agrarian reform program in our country. This will further limit the scope of agrarian reform.

Madam President, we must remember that in 1972, President Marcos declared the whole country covered by land reform through P.D. No. 2. A month later, P.D. No. 27 was issued limiting the scope of land reform only to rice and corn lands. He later issued several decrees further impairing the agrarian reform program. For instance, he issued P.D. No. 1942 which limits the scope of land reform. Under that decree, lands which were newly converted to rice and corn are exempted from land transfer. In 1974, he issued General Order No. 47 on Corporate Farming Program. Under this order, landowners have found a convenient excuse to avoid land reform by leasing their landholdings to a corporate farm. As of 1979, about 15,000 hectares of land originally occupied by tenants, small settlers and small owner-cultivators have been lost to corporate farms. Many alienated peasants were absorbed as workers in the corporate farms. Others had simply nowhere to go. Some of these agribusiness corporations operating in Mindanao availing of the benefits under General Order No. 47 are the following: Tagum Agricultural Development Incorporated (TADECO), Davao Foods Corporation, IHO Plantation Incorporated, NTC GUTHRIE Estates Incorporated, Sime Darby International Tire Company, Davao Agricultural Ventures under TADECO, San Miguel Corporation and Ayala Agricultural Development Corporation. And, lastly, he issued LOI No. 143 which exempts landowners who are members of the Armed Forces of the Philippines and other branches of the government from inclusion in Operation Land Transfer.

It is my humble submission that if we include the words "priorities" and "and other conditions as Congress may prescribe," we open the floodgates to more restrictions and limitations thereby seriously impairing the crucial provision in our Constitution on agrarian reform. Therefore, I humbly request that these words be deleted.

Finally, because of these decrees and the conditions issued by Mr. Marcos, the effect according to one article was this, and I would like to quote it:

The Marcos regime promoted the full commercialization of agriculture with unparalleled vigor justifying such thrust in the name of seemingly pro-people programs such as land reform and agricultural modernization. Backed up by tremendous funding from the World Bank group, the program of modernization sometimes dubbed as rural mobilization turned out to be a mere vehicle for the unprecedented expansion of agri-business interest.

Mindanao and Palawan were divided, salami style, into different plantations owned by agri-business transnationals and local corporate interests led by Marcos cronies such as Antonio Floirendo and Eduardo Cojuangco.

In Luzon and in Visayas, the small farmers were gradually trapped inside the huge agri-business net through the new seeds dependent on expensive agri-business inputs, the corporate-contract growing system and the so-called interplay of market forces.

So, Madam President, on the basis of these manifestations, I suggest that we delete the words "priorities" and "other conditions as Congress may prescribe."

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: May I say a few words against the proposed amendment?

Honestly, I do not feel that we in this Constitutional Commission are better qualified or better equipped to decide

on this matter and to go into the details of this land reform than the representatives and senators who will be elected by our people and who will compose the membership of our Congress. I think we are beginning to lose confidence in our officials who will be elected. We seem to suffer from paranoia because of what Marcos did. But, Madam President, Marcos was a dictator; he declared martial law.

THE PRESIDENT: What is happening, Commissioner Rodrigo?

MR. RODRIGO: There was a conversation going on beside that microphone and I could not concentrate, Madam President. It is all right.

THE PRESIDENT: I thought Commissioner Rodrigo's freedom to speak is being censored.

MR. RODRIGO: No, Madam President. I was just being bothered.

THE PRESIDENT: Please proceed.

MR. RODRIGO: I need a little peace and quiet so that I can concentrate.

Madam President, we should not base our judgment of the coming Congress on what President Marcos did under Amendment No. 6. He was a one-man legislature, and he favored his cronies because he thought he was going to be a dictator for life. But remember that the members of our Congress will be elected by the people and will run for reelection, and so they have to be sensitive to the needs and feelings of the people. I do not think we are better qualified than they are to go into the details of this land reform program. Let us face it. We are appointive officials. The members of Congress will be elected from all over the Philippines. For example, I would not know how to deal with land reform in coconut lands I have no knowledge of, or in sugarlands. I am not acquainted with this or in Virginia tobacco-growing regions; I have no knowledge of this. But the coming Congress will have representatives from the coconut region, the sugar region, the tobacco-growing region and other regions, and they will know how to act and they will be responsible to the people, more responsive than we are. And so, I do not think that we should limit unnecessarily the discretion of our Congress in implementing this land reform.

Thank you very much.

MR. BENGZON: Madam President.

THE PRESIDENT: Commissioner Bengzon is recognized.

MR. BENGZON: May the Committee now ask for a vote?

THE PRESIDENT: What is the reaction of the Committee first?

MR. BENGZON: I believe the Committee will not accept the amendment.

MR. TADEO: Madam President.

THE PRESIDENT: Commissioner Tadeo is recognized.

MR. BENGZON: The Committee is divided that is why we will submit it to a vote, Madam President.

MR. TADEO: Ang mga sinabi ni kasamang Rene Sarmiento ay wasto naman. Naging loopholes ang mga ito sa pagpapatupad mismo ng P.D. No. 27. Tungkol sa "subject to such priorities," sa pananaw ng magbubukid, kung ito ay mananatili, ang ibig sabihin ay magsisimula ito doon sa sinasabi natin kanginang equity — iyong sobra at labis na lupain ay mapupunta roon sa maliliit na magbubukid, sa mga landless na sinasabi natin kangina. Totoong maselang umpisahan ang land reform program sa small landowner. Magkakaroon talaga tayo ng problema. Kaya ang ibig naming sabihin ay kung mananatili ang phrase na ito ay magsisimula tayo sa big tenanted landholdings,

ill-gotten agricultural lands, tenanted agricultural lands, idle and/or abandoned agricultural lands.

Ang tanong kasi ni Commissioner Ople noong isang araw ay, "Jimmy, kung isang malaking plantasyon na ten hectares, paano ba ito?" Narito ngayon ang sagot. Uumpisahan natin sa malalawak at malalaking lupain, kasi nandoon talaga iyong tinatawag nating equity — magsisimula sa labis at sobra, ibibigay doon sa landless at hindi sa small landowner na sinasabi ni Commissioner Nollado. Ito iyong sa huling bahagi na sinabi ko noon pa, regardless of crops. Pero dapat i-delete iyong other conditions, dahil magkakaroon dito ng napakalaking loopholes.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: I move that we vote on the amendment individually. I think Commissioner Tadeo has a very good point. I may want to keep that phrase "subject to such priorities" because he has advocated that in the Committee for a long time. I think that that will make for a very reasonable land reform and the other one may be an onerous provision — "and other conditions as Congress may prescribe." And so, I would not want to have a wholesale vote on the two of them.

MR. TADEO: Madam President, pabor ako; kaisa ako sa mungkahi ni Commissioner Sarmiento.

MR. OPLE: Madam President, may I suggest that we preserve the words "retention limits."

MR. SARMIENTO: That phrase is preserved, Madam President.

MR. OPLE: Yes, but I also would move for the deletion of "other conditions." May I visualize for the body the situation that will transpire in the future Congress?

Most of those who will be elected by legislative districts will represent landed interests, and they will focus on these other conditions to legitimize all manner of circumventing the heart and the spirit of Section 5. I support Commissioner Tadeo in his position that the words "other conditions" would mean providing in advance a weapon for future adversaries of Section 5 in the Congress in order to circumvent the entire Section 5.

SR. TAN: Madam President.

THE PRESIDENT: Commissioner Tan is recognized.

SR. TAN: Madam President, I am not referring to Mr. Marcos or to Congress; I am referring to ourselves. Since we started this agrarian reform, I get the impression that we are cutting more and more the rights of the farmers. First, we removed "basic," so it was only "right"; then, we added "retention rights"; then, we removed "just and progressive system"; we just have "just" with the understanding that there is prior payment; now we have "and other conditions as Congress may prescribe." So, I feel at this moment that this land reform is for the benefit of the middlemen or the middle class or the elite class. So, I am pleading that at least that phrase "other conditions" be deleted.

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: I have a motion that they be taken and voted on separately because that will not prejudice anybody.

THE PRESIDENT: We have the proposed amendment of Commissioner Sarmiento and that would depend on him. He was the one who made this amendment.

MR. SARMIENTO: Madam President, following the Chair's instruction and manifestation, may I move that we first vote on the deletion of the word "priorities"?

THE PRESIDENT: What does the Committee say?

MS. NIEVA: Yes. I think we should take this up because when we discussed these priorities in the meeting, we have agreed that we would first concentrate on the big landholdings and that there would be a timetable; and only then would we gradually go down to the smaller landholdings. That is what we meant by "priorities." So, we are willing to put this to a vote.

BISHOP BACANI: Madam President, if my memory serves me right, Commissioner Tadeo was the main proponent of this.

MR. TADEO: Paglilinaw, Madam President. Ang una kong option dito ay ang deletion of "priorities" and "other conditions." Ang point ko lang ay kung mananatili pa rin ito, ang ibig sabihin ng priorities ay iyong ipinaliwanag ko kanina. Pero ang una kong option dito ay to delete "priorities" para maiwasan na ang problema.

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: I object to eliminating the very important phrase "as Congress may prescribe."

MR. SARMIENTO: Madam President, we will be voting on the first issue, the elimination of the word "priorities." Thereafter, we will vote on the deletion of the words "other conditions."

THE PRESIDENT: Yes, but Commissioner Sarmiento's amendment includes the deletion of "as Congress may prescribe."

MR. SARMIENTO: No, Madam President. My amendment is the deletion of "such priorities" and "and other conditions." So, it will read: "subject to reasonable retention limits as Congress may prescribe, taking into account ecological, developmental or equity considerations and subject to a just compensation."

May I just inform the body, Madam President, that Article XIII, Section 12 of the 1973 Constitution does not even contain qualifications and limitations. It simply states:

The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution.

What we have is a list of restrictions and limitations under this new Constitution, Madam President.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I understand that the Committee's interpretation of "other priorities" would refer to the prioritization of the application. So, it should start first with the big landed estates and then those who would be affected later will be the small landowners. To me, that is a very sensible limitation, because if we do not establish the basis for a priority, Congress may also adopt the reversed system; start first with the small landowners because they are not represented in Congress. So, we will have Congress attending only to the vested interests of the big landowners. The small landowners will be victimized now by an act of Congress which is controlled by a group with a vested interest.

Insofar as the Article referred to by Commissioner Sarmiento is concerned, that was even dangerous, because it

was a mere declaration of a principle that the State shall adopt an agrarian reform program, and that is the reason why President Marcos abused that particular declaration of principle. Now, we are mandating Congress to especially provide for an agrarian reform program in order that the landless will now be the owner of the property they are tilling, and necessarily we have to take into account also the developmental and ecological objectives of the State because of the necessity to balance interests. We are only giving Congress the parameters in the imposition rather than in the exercise of a duty to pursue the objectives of land reform.

So, I would object to the proposal to delete these words.

MR. VILLEGAS: Madam President.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Could I also add some arguments in support of Commissioner Davide's wanting to retain the word "priorities"?

As already emphasized by Commissioner Rodrigo, this body is not technically competent to determine, for example, whether or not we should first complete the rice and corn land reform program and then start with coconut and sugar. There are so many questions that will have to be resolved by technical studies so that we can establish priorities. So, this is not only a question of big versus small landholders but we are concerned with the various crops planted on these lands. Since we are interested with all crops, we cannot implement the land reform simultaneously; we will have to set priorities. That is why, I think, the expression "subject to such priorities" would be very much needed in order that Congress will know that we are cognizant of the fact that there are priorities even as far as crops are concerned.

FR. BERNAS: Madam President.

THE PRESIDENT: Let us hear first Commissioner Bernas.

FR. BERNAS: Madam President, I quite realize that there may be a need to establish priorities, but if for the understanding of the meaning of priorities we always have to go to the debates of the Constitutional Convention, then that is a difficult situation. In constitutional construction, the first rule is that one looks at the meaning of the word, and it is only secondarily that one goes to the record. As it is now, with this enumeration of so many things, it would seem that we are constricting the power of Congress to push land reform rather than strengthening it. Anyway, we have the clause "as Congress may prescribe." Moreover, it says: "taking into account ecological, developmental or equity considerations and subject to a just compensation." All of these are merely a repetition of the fact that Congress after all has plenary powers as far as legislation is concerned. Congress can exercise and restrict. So, I disagree with those who may say that, in effect, we are preempting the right of Congress to establish priorities. Rather, what I say is that we must avoid the impression that we are really almost unwillingly recognizing the power of Congress to undertake a land reform program — that impression jumps out from the text when one looks at the enumeration of all those limitations on the power of Congress.

MR. NOLLEDO: Madam President, will the Gentleman please yield to some questions?

FR. BERNAS: Very willingly, Madam President.

THE PRESIDENT: Commissioner Nollado is recognized.

MR. NOLLEDO: I would like to give emphasis to the words "may prescribe." Would the Gentleman agree with me that if I say "subject to such priorities, reasonable retention limits and other conditions as Congress may prescribe," we are giving Congress a discretion to set forth priorities? The words "may prescribe" would mean that Congress may not prescribe priorities after all?

FR. BERNAS: It is possible that in the judgment of Congress, what it considers priority may be to set priorities.

MR. NOLLEDO: The Gentleman is aware that the Ministry of Agrarian Reform, as announced in today's papers or yesterday's papers, is also observing some sort of priorities in the sense that they would like to complete the rice and corn land reform program before going to coconut or sugar land because we do not have the necessary funding to finance the entire land reform program.

FR. BERNAS: The point is, I am not denying the right of Congress to set priorities. All I am saying is that by enumerating all these, we give the impression that we are trying to constrict the power of Congress.

MR. NOLLEDO: Based on the explanation of Commissioner Tadeo, we are not constricting the power of Congress because Congress may begin first with the big landholdings and later on with medium-sized landholdings, and perhaps later on with small landholdings unless they are exempt by Congress.

FR. BERNAS: But as I understand Commissioner Tadeo, he sees the difficulty now and, as a matter of fact, he is willing to eliminate "priorities."

MR. NOLLEDO: Yes, that was his first choice. But later he said that his second choice, based on his interpretation is that the word "priorities" may exist here after all. I think Commissioner Bernas would like to eliminate the word "priorities" because of the words: "taking into account ecological, developmental or equity considerations" which will take the place of "priorities."

FR. BERNAS: Correct, Madam President. That is a sufficient guideline for Congress.

MR. NOLLEDO: Would that guideline be less emphatic than the word "priorities"?

FR. BERNAS: When Congress takes into consideration "ecological, developmental or equity considerations," in fact, it will be setting the priorities.

MR. NOLLEDO: The word "priorities" is more emphatic. Why do we not place it there?

FR. BERNAS: It is excess verbiage; it gives the impression that we are more interested in limiting Congress than in pushing Congress towards land reform.

MR. NOLLEDO: I do not think so, Madam President, because of the words "may prescribe." In fact, we are giving flexibility to Congress, considering, as stated by Commissioner Rodrigo, that we do not enjoy the mandate of the people. We are merely appointed. Why do we not let Congress, whose elective members enjoy the mandate of the people, determine the set of priorities?

FR. BERNAS: I am not denying that at all. I think, Madam President, we have sufficiently discussed this. It is a question of perceptions; we submit it to a vote.

MR. NOLLEDO: Thank you, Madam President.

MR. RAMA: Madam President, the issue has been amply debated. I move that we vote on this particular amendment.

THE PRESIDENT: The body will vote on the deletion of the words "such priorities." Is that correct, Commissioner Sarmiento?

MR. SARMIENTO: Yes, Madam President.

VOTING

THE PRESIDENT: That is what we will do.

As many as are in favor of the proposed amendment of Commissioner Sarmiento to delete the words "such priorities" from the second sentence of Section 5, please raise their hand. (Few Members raised their hand.)

As many as are against, please raise their hand. (Several Members raised their hand.)

The results show 14 votes in favor and 20 against; the amendment is lost.

What is the other amendment?

MR. SARMIENTO: My second amendment, Madam President, is the deletion of the words "and other conditions."

VOTING

THE PRESIDENT: As many as are in favor of the deletion of the clause "and other conditions," also on the second sentence of Section 5, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

The results show 20 votes in favor and 15 against; the amendment is approved.

MR. RAMA: Madam President, there is still one proponent of an amendment to Section 5.

May I ask that Commissioner Rosario Braid be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, I have an amendment by addition on the second sentence of Section 5. Between "encourage" and "and," insert the phrase VOLUNTARY LAND SHARING. May I please give the background of my amendment?

I think we are all convinced that the government should take the prime responsibility in agrarian reform and that we should put more teeth in the implementation of the program so that we can redress present imbalances and inequities. But 10 years from now, we would like the government to assume a lesser role. We would like to see more initiative from the people. We would like to encourage efforts like what is happening in Negros in terms of voluntary land sharing. We would like to be able to help reorient the middle class, the landlords, the employers so that we can change adversary or confrontational strategies to cooperative and harmonious relationships. There are actually projects like human resource development programs, which bring together the landlords and the planters with the sacadas. In this dialogue, the spirit of cooperation and harmony is forged and, consequently, is voluntarily shared. We would like to see the Ministry of Agrarian Reform move towards creating a climate where private initiative could thrive. And so, I would request the Committee to consider including an amendment on voluntary land sharing. After all, in the labor sector, they agreed on voluntary modes of settling disputes. This would encourage government and other non-government organizations to move towards this direction.

Thank you, Madam President.

THE PRESIDENT: May we have the proposed amendment?

MS. ROSARIO BRAID: Between "encourage" and "and," insert VOLUNTARY LAND SHARING.

THE PRESIDENT: Is that a new sentence?

MS. ROSARIO BRAID: No, it is in the second sentence which will then read: "To this end, the State shall encourage VOLUNTARY LAND SHARING and undertake the just distribution of all agricultural lands . . ."

MS. NIEVA: Does not Commissioner Rosario Braid think that that is included in the phrase "the State shall encourage"? By encouraging, would that not necessarily include voluntary and all modes of land distribution?

MS. ROSARIO BRAID: It might be, Madam President, but it does not provide a mandatory direction that would move towards this direction. Actually, I see voluntary land sharing as the wave of the future in land reform.

MR. NOLLEDO: Madam President, will the Commissioner please agree to an amendment?

MS. ROSARIO BRAID: Certainly.

MR. NOLLEDO: If we adopt Commissioner Rosario Braid's amendment now, it might result in a nebulous provision. Would she agree with me if we make it as the last sentence of Section 5: THE STATE SHALL FOSTER VOLUNTARY LAND SHARING?

MS. ROSARIO BRAID: It is all right.

MR. NOLLEDO: Instead of putting it there, we should place it at the end of Section 5 because in the amendment, we cannot begin: "To this end, the State shall encourage. . ." I think the sentence, as already amended, will be adversely affected if we put "VOLUNTARY LAND SHARING," because it might create the impression that what the State fosters is only voluntary land sharing, which is not the case. However, we can supplement the provision by stating: THE STATE SHALL FOSTER VOLUNTARY LAND SHARING as the last sentence of Section 5. That is my amendment to the amendment.

MS. ROSARIO BRAID: Accepted, as long as the concept is there.

MR. NOLLEDO: I ask that the members of the Committee please consider seriously the amendment of Commissioner Rosario Braid, because the first provision excluding her amendment will indicate compulsory land distribution while that of Commissioner Rosario Braid encourages only voluntary land sharing. That is without State intervention. Any landholder may adopt a voluntary land sharing program, perhaps with the support of the State.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Would the proponent yield to some questions?

MS. ROSARIO BRAID: Certainly.

MR. DAVIDE: By voluntary land sharing, would it also encompass the right of the landowners to share their landholdings?

MS. ROSARIO BRAID: Certainly.

MR. DAVIDE: If that is so, would it not defeat the objective of land reform, because if they now voluntarily share their landholdings, it could be beyond the reach of land reform?

MS. ROSARIO BRAID: No, not necessarily; it can be a complementary program.

MR. DAVIDE: It could be, but that is also a right conceded to the landowners. So, how can we remove from them what they have already obtained by reason of an exercise of a right? So, if we now allow land sharing among landowners, it will remove the right to implement the land reform over these land areas which are subject of the

land sharing.

MS. ROSARIO BRAID: I think the future legislature could come up with provisions that would specify the size of land that could fall under voluntary land sharing and other specifics. The concept is to ensure that this is also taken up as complementary program.

MR. DAVIDE: I would have no objection if the land sharing will be by the farmers and the farm workers, because that would amount to collective ownership. But, if it would apply even to the landowners whose lands may be the subject of land reform, then that might be dangerous. We give it as an option to the farm workers and the farmers, but not to the landowners.

MS. ROSARIO BRAID: I think it could be stated as an option, and we should encourage it as long as it would not prejudice the existing land reform program.

MR. DAVIDE: Yes, as an option to the beneficiaries, but not to the original landowners. I would agree with the proponent because it would really encourage the establishment of cooperatives or partnerships among the beneficiaries.

MS. ROSARIO BRAID: Yes.

MR. DAVIDE: But not in favor of the original landowners.

MS. ROSARIO BRAID: Could we work on an amendment that would capture the spirit of what Commissioner Davide said?

MR. DAVIDE: If it would be an option to be granted to the beneficiaries, I think the word COLLECTIVELY would already embody the concept. They are entitled to own singly or directly, on the one hand, or collectively on the other. That would already include land sharing. That is my own perception. I do not know the position of the Committee on the matter.

MS. QUESADA: Madam President, could I just ask a few questions from the proponent?

THE PRESIDENT: Commissioner Quesada is recognized.

MS. QUESADA: The proponent said that the basis for this proposal was the experiment that her organization tried out in Negros. Could she just enlighten the Committee on the background of such a proposal which has served as the basis for this amendment on land sharing?

MS. ROSARIO BRAID: It has emerged out of a dire need in the province of Negros. As a matter of fact, it is perhaps the most imaginative and most successful program now. They have Ed Locsin of Chito Foundation and his colleagues and these programs are supported by the Farmers' Human Resource Development Programs of Mrs. Magsaysay and others. This experiment is spreading in the region and has proven worthy of replication. It has been evaluated in many reports. Among the benefits is the establishment of a more cooperative, harmonious environment. Having the landlord and the worker together reduces confrontational and adversarial relations. It is a complementary strategy to the traditional land reform program.

MS. QUESADA: Does the proponent envision the government to come in to this kind of an arrangement?

MS. ROSARIO BRAID: Yes, by creating the climate. They have a number of programs, primarily, training and research programs. Some of the resources could support the replication of these projects throughout the country. So, instead of using the resources in just supporting the traditional land reform programs, they can develop the pilot communities throughout the country.

MR. RAMA: Madam President, the amendment has been clearly explained by the proponent and I think it is time to vote on that amendment.

SUSPENSION OF SESSION

THE PRESIDENT: We will give the Committee a few minutes to deliberate on this.

The session is suspended for a few minutes.

It was 3:33 p.m.

RESUMPTION OF SESSION

At 3:35 p.m., the session was resumed.

THE PRESIDENT: The session is resumed.

MR. RAMA: Madam President, the Committee has decided to put to a vote the amendment of Commissioner Rosario Braid.

MR. MONSOD: Madam President, may we please explain our position.

THE PRESIDENT: Yes, let us hear first the Committee.

MR. MONSOD: Madam President, when the Committee drafted this section, we put the word "encourage" precisely not to preclude voluntary modes of just distribution. However, the section is very clear, that the coverage is all agricultural lands.

I think the proposal of Commissioners Rosario Braid and Nollado is not precluded by the word "encourage" because it is possible, in order to encourage, that the government will give incentives to accelerate the program in its system of priorities. So, I do not think that that is precluded, and it is unnecessary.

So, the Committee feels that it cannot accept the amendment because it might confuse or it might open the section to a different interpretation, and we want to establish the coverage to all agricultural lands.

MR. NOLLEDO: Madam President, may I answer very briefly?

THE PRESIDENT: Yes, Commissioner Nollado.

MR. NOLLEDO: The proposed amendment of Commissioner Rosario Braid is designed to really accelerate land reform program with respect to those who would like to comply voluntarily with it, expecting that they will be given incentives by the government.

We have amended the amendment already, Madam President. Landowners who are willing to adopt voluntary land sharing may be afraid of paying capital gains tax. They want, in a spirit of Christian brotherhood, to comply with the land reform program of the government, even disregarding priorities that may be set forth by Congress. But they like the government to give them incentives, like exemption from capital gains tax.

And so, Commissioner Rosario Braid may read the proposed amendment as amended.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: If the Committee will allow me to read the amendment, it will be: THE GOVERNMENT SHALL PROVIDE INCENTIVES TO THOSE WHO ADOPT VOLUNTARY LAND SHARING. So, this will be the last sentence.

VOTING

THE PRESIDENT: This has been sufficiently discussed during the session and also during the suspension of the session. So, they are ready to vote.

As many as are in favor of the proposed amendment of Commissioner Rosario Braid to add a sentence to Section 5 which she has just stated, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (Few Members raised their hand.)

The results show 16 votes in favor and 14 against; the amendment is approved.

MR. RAMA: Madam President, for a one-word amendment, I ask that Commissioner Jamir be recognized.

THE PRESIDENT: Commissioner Jamir is recognized.

MR. JAMIR: Madam President, my amendment is with respect to the second sentence; insert the word ARABLE between "all" and "agricultural."

THE PRESIDENT: Will Commissioner Jamir please explain?

MR. JAMIR: Yes, Madam President. I propose to insert the word ARABLE to distinguish this kind of agricultural land from such lands as commercial and industrial lands and residential properties because all of them fall under the general classification of "agricultural." And since the intention of the Committee, apparently, is to limit the application of the word "agricultural" here to land subject to cultivation I am adding the word ARABLE.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

The words "agricultural lands" have already been defined repeatedly, that they are not supposed to include commercial and industrial lands. But the contemplation of the Committee in its definition would be limited to arable and suitable agricultural lands.

MR. JAMIR: So it is clear that "agricultural lands" do not include commercial, industrial and residential lands.

MR. SUAREZ: The Commissioner is correct.

MR. JAMIR: With that explanation, I voluntarily withdraw my amendment, Madam President.

MR. SUAREZ: Thank you.

MR. RAMA: Madam President.

THE PRESIDENT: The Floor Leader is recognized.

MR. RAMA: In consequence of the amendment of Commissioner Sarmiento, there is a necessary one-word addition to this Section 5. May we call on Commissioner Sarmiento, Madam President.

THE PRESIDENT: What happened to the Jamir amendment?

MR. RAMA: It was withdrawn because of the explanation of the Committee.

THE PRESIDENT: All right.

MR. PADILLA: Madam President.

THE PRESIDENT: Yes, the Vice-President is recognized.

MR. PADILLA: With regard to the proposed amendment of Commissioner Jamir and the explanation of Commissioner Suarez, I would like to state that public lands are broadly classified into timberlands and agricultural and mineral lands.

But under the term agricultural lands, there are subdivisions, as mentioned by Commissioner Jamir, which may include residential, commercial and industrial lands. So to make it clear, especially because there is the word "all" to "agricultural lands," I think that the proposed amendment of putting "ARABLE" — and Commissioner Suarez even added, "AND SUITABLE" — would be acceptable. That while it says, "all agricultural lands," it is limited to agricultural lands that are open to farming or agricultural cultivation, etc.

So with the permission of Commissioner Jamir, I would propose that we adopt, subject to what the Committee feels, the insertion of the word "ARABLE" because the word "all" was not deleted. So, in my opinion, we can either eliminate "all" and just say "agricultural lands," or if the word "all" is retained, insert the word "ARABLE."

What does the Committee say?

MR. REGALADO: Madam President.

THE PRESIDENT: Commissioner Regalado is recognized.

MR. REGALADO: Just in support of what Commissioner Padilla has stated and for symmetry and uniformity of both expression and intendment, we may take into account the provisions of Section 7 with respect to lands of the public domain which also specifically state "suitable to agriculture." So I think the same intent also applies to private lands.

Therefore, aside from the possibility of using the word "arable," we can say DISTRIBUTION OF ALL LANDS SUITABLE TO AGRICULTURE just to make it jibe with the same phraseology in Section 7.

THE PRESIDENT: Is that acceptable to Commissioner Padilla?

MR. OPLE: Madam President.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Let us get the reaction first of Commissioner Padilla on the proposed amendment.

MR. PADILLA: I have no objection to the proposal of Commissioner Regalado because it expresses the same substance.

MR. OPLE: Madam President, will Commissioner Padilla yield?

THE PRESIDENT: Let us hear Commissioner Bennagen first, as member of the Committee.

MR. BENNAGEN: Thank you, Madam President.

There is a distinction in the use of "agriculture" in Section 7 and its use in Section 5. The reference to the use of "suitable to agriculture" in Section 7 has something to do with other natural resources including lands of the public domain, whereas in Section 5, the reference is clear, that it is to "agricultural lands." In any case, we have three criteria which have to be taken into account in all those proceedings: ecological, developmental and equity considerations. I think those should be taken into account.

Thank you, Madam President.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

May I just quote for the benefit of the Commissioners, the Ministry of Agrarian Reform survey report of May 1986, defining the meaning of agricultural lands for land reform purposes:

Agricultural lands mean lands devoted to any growth, including but not limited to, crop lands, salt beds, fishponds, idle lands and abandoned lands. They include all arable public and private lands, regardless of crop, size of landholding and tenurial arrangement.

I hope that will satisfy the observations of Commission Padilla.

MR. PADILLA: Precisely the Commissioner's definition or that definition uses the word "arable." So we are just adopting that word.

MR. SUAREZ: No. That is why it is already included in the words "agricultural lands," Madam President.

MR. PADILLA: No.

MR. SUAREZ: I am referring to the word "arable."

MR. PADILLA: No, it is not included because the term "agricultural lands" is very broad. Agricultural lands are only distinguished from timberlands and mineral lands. All other lands are agricultural but definitely not all agricultural lands are arable.

MR. SUAREZ: The problem is, if we define it with the word "arable," it might exclude the possibility of setting up, for example, a salt bed, a fishpond, which may not, strictly speaking, be fit for cultivation or may not be arable. That is the fear of the Committee, so we would rather that this be broadened by just saying "all agricultural lands," which would necessarily include even salt beds and fishponds.

MR. PADILLA: In that case, if the Commissioner feels that "arable" does not cover everything that should be covered by agricultural lands, except those mentioned as residential, commercial and industrial, then we just say "agricultural lands" without using the word "all."

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Madam President, my concern is about the more or less 600,000 kaingineros all over the country. We all know there is a program of the Ministry of Natural Resources granting stewardship contracts to these kaingineros that later on can mature into ownership, so that they stop burning our forests, destroying our watersheds and causing calamities on the lowlands, especially through floods. Will this definition of "arable lands" exclude from the purview of agrarian reform these slash-and-burn farmers of whom we have, according to the NEDA, no fewer than 600,000 right now?

MR. PADILLA: Madam President, some of these kaingineros burn trees within timberlands or forest lands, and these are illegal acts. It is worse if they cut the trees because that has given rise to many adverse consequences — erosion of soil, floods and others. So if these are timberlands and not classified as agricultural lands available to private grants like homestead, lease, or other methods recognized by the Public Land Law, I believe that such lands are still, or should remain as, forests or timberlands. The trouble is that when the trees are cut, as we have rich soil, the lands within the forest can also be used for planting agricultural crops. But I believe that if portions of the forests or timberlands are no longer timberlands or forest lands, then by public authority, the Bureau of

Forest Development on the one hand, and the Bureau of Lands, on the other, should agree to declare that such portions thereof are already available for disposition to private parties for purposes of agriculture. But before that, I believe we have to maintain the basic difference between mineral lands, timberlands and agricultural lands.

MR. OPLE: May I ask the Committee, therefore, what its position is — whether under this definition of "arable lands" and "all agricultural lands" proposed to be distributed under Section 5, that the right of the kaingineros to their own piece of land already released by the Bureau of Forest Development will not be prejudiced in the light of this agrarian reform program that is before the Commission?

MR. BENNAGEN: Ang mga kaingineros ay dapat kasali sa mga beneficiaries of agrarian reform, pero iyong bahagi ng gubat na kanilang tinatamnan, dahil sa kawalan ng patag na kanilang matatamnan, ay hindi kasali sa agrarian reform. Ito ay sa dahilang by definition, according to existing laws, pag lampas na sa 18 percent degrees slope, hindi na kasama sa agricultural land kundi sa forest. Kaya mahalagang may distinction iyong kainginero mismo at ang kanilang lupang tinatamnan.

MR. OPLE: Does the Commissioner mean that above an 18 percent degrees slope, this is no longer covered by agrarian reform?

MR. BENNAGEN: No, kasi hindi pa iyon A and D. It is not classified as alienable and disposable. It belongs to the classification of forest land.

MR. OPLE: I hope that the Commissioner's interpretation is correct. But I can assure him right now that there are millions of hectares in the Philippines above an 18 percent degrees slope and are considered eminently cultivable.

MR. BENNAGEN: Yes, that is right. As a matter of fact, there was a big debate on the issue of 18 percent, because 18 percent considers only the slope and not the other variables that have to do with productivity.

MR. OPLE: The Committee on the Executive, therefore, should keep an open mind about this limit, because I think it might just succeed in excluding hundreds of thousands of hectares from agrarian reform.

MR. BENNAGEN: No. I am merely referring to the 18 percent in relation to this concept which is being subjected to debate, partly in relation to ancestral lands and partly in relation to the other variable, such factors of productivity that have to be taken in consideration, not only the slope.

MR. OPLE: Thank you, Madam President.

MR. RAMA: Madam President, I ask that Commissioner Concepcion be recognized.

THE PRESIDENT: Commissioner Concepcion is recognized.

MR. CONCEPCION: Thank you, Madam President.

The term "agricultural land" as found in other provisions of the Constitution, particularly those referring to the conservation of natural resources and public utilities, apparently partakes a different meaning when used in connection with land reform. For purposes of consistency and uniformity, therefore, I believe the use of the term "agricultural lands" as applied in this particular provision should be made to connote the same meaning when applied to other provisions in the Constitution . . . the same policy as observed in the use of the term "just compensation."

Under these provisions on conservation of natural resources, all lands which are neither timberlands nor mineral lands fall under the category of agricultural land. The reason, according to the authorities, is that lands are per se agricultural. However, in view of the wealth in mineral deposits as may be found in particular areas, these areas, although rich in agriculture, may be classified as mineral lands as determined by the national government.

For similar reasons, forest lands are classified as timberlands, although they have no forests but, by reason of topography, they are suitable watersheds. These areas rich in agriculture are, however, not considered as agricultural lands but are classified as timberlands. Ironically, some of these timberlands are now denuded.

It is all right to have different categories of agricultural lands, but these categories of agricultural lands under land reform were not found under the old Constitution. Hence, the use of the term under land reform would have a different meaning when referring to the provisions on the conservation of natural resources, or vice versa. It would create a great confusion if the term "agricultural lands" were to connote a different meaning when used in different provisions of the Constitution.

Thank you, Madam President.

MR. RAMA: Madam President, for a final comment on the same Padilla amendment, I ask that Commissioner Villegas be recognized.

THE PRESIDENT: Commissioner Villegas is recognized.

MR. VILLEGAS: Madam President, just some information to anticipate really our discussion on the Article on the National Economy and Patrimony, because there are a lot of relevant data on the specific classification of natural resources:

If we will remember, in the 1973 Constitution, lands were classified into too many categories and this gave the Marcos regime tremendous elbow room in actually reclassifying lands, especially for the benefit of the Ministry of Human Settlements. If we will remember also, that regime reclassified lands into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands.

Now, in the committee report on the Article on the National Economy and Patrimony, we recommended that we go back to the 1935 classification, as suggested by Commissioner Concepcion, so that we just have three — mineral, timber and agricultural — and then we add a fourth one, national parks, which is the innovation of this Constitution after a lot of public hearings where we got this recommendation. We will discuss this at the opportune time. So we are suggesting four classifications now, the three that appeared in the 1935 Constitution plus national parks.

I agree that it may not be necessary to add the word "ARABLE" because I think there is already a jurisprudential definition of "agricultural." And since this is something that is subject more to further determination of the legislature because, as already mentioned by Commissioner Bennagen, there are all sorts of technological changes that may render certain types of steep mountains arable in the future. And as this body probably knows, there are a lot of industrial tree plantations that are much more agricultural really than timberland. There are a lot of fast-growing trees that are being grown in the same way as we grow sugar cane so the distinction between timberland and agricultural land is becoming thinner and thinner. That is why in the committee report on the Article on the National Economy and Patrimony, we are recommending a new provision that the legislature or Congress should fix the definition of forest lands which should not be diminished thereafter, but the fixing would be subject to a lot of studies because Congress would have to get experts to determine exactly what is timberland and what is agricultural land.

Thank you, Madam President.

MR. RAMA: Madam President, the proponent of the amendment insists on a vote on his amendment.

THE PRESIDENT: It is Commissioner Padilla now because Commissioner Jamir withdrew his amendment. How does Commissioner Padilla's amendment read?

MR. PADILLA: Delete the word "all" so that the line would read "just distribution of agricultural lands."

THE PRESIDENT: Do we have any reaction from the Committee?

MS. NIEVA: Madam President, we do not accept the amendment.

VOTING

THE PRESIDENT: The Committee does not accept the amendment. So let us proceed to vote then.

Those in favor of deleting the word "all" before the word "agricultural" will please raise their hand. (Few Members raised their hand.)

Those against will please raise their hand. (Several Members raised their hand.)

The results show 7 votes in favor and 26 against; the amendment is lost.

MR. SARMIENTO: Madam President.

THE PRESIDENT: Ipinakiusap lamang sa aming mga bisita dito sa session hall na huwag pumalakpak o gumawa ng anumang reaksiyon kung may botohan o talakayan dito sa Komisyon.

MR. RAMA: Madam President, before we move over to the next section, I ask that Commissioner Sarmiento be recognized for a perfecting amendment.

THE PRESIDENT: Commissioner Sarmiento is recognized.

MR. SARMIENTO: Madam President, I move for the insertion of the word AND between "priorities" and "reasonable." The reason for this is the consequence of our decision to delete the words "and other conditions."

THE PRESIDENT: So the phrase reads "such priorities AND reasonable."

Is this accepted by the Committee?

MS. NIEVA: Yes, Madam President, we accept it.

MR. SARMIENTO: Thank you, Madam President.

THE PRESIDENT: Is there any objection to this proposed amendment? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

On Section 6, we notice the incorporation of the words "research and development" as an amendment to the original proposal. I am for its deletion because research and development, if development is related to research, would already be included in the word "technology."

MR. BENGZON: Is Commissioner Davide talking of Section 6?

MR. DAVIDE: Section 6, page 2.

MR. BENGZON: Can we vote on Section 5 first?

Madam President, we have not voted on the whole of Section 5. If there are no more amendments to Section 5, we

request that the body vote on the whole section, as amended.

MR. TADEO: Madam President, I seek clarification on this very crucial part of Section 5. Ito pong "just compensation," kung ang kahulugan nito ay hindi ang reasonable capacity of the farmer to pay under the right of preemption and right of redemption, I would like to cite the case of Valdez vs. Balmocena, CAGR No. 01487-R, October 7, 1976. Dito po ay ipinaliwanag ang right of redemption, na kapag ibinenta ng panginoong may-ari ng lupa ang lupang sinasaka ng magbubukid sa iba, may karapatan ang magbubukid na maghabol at ang babayaran ng magbubukid ay hindi batay sa usapan ng vendee at ng panginoong may-ari ng lupa kundi batay sa reasonable capacity of the farmer to pay. Kung hindi po ito ang kahulugan ng "just compensation," ay binabawi ko po ang boto ko.

MR. BENNAGEN: Ang pagkaunawa natin dito sa "just compensation," isinasaalang-alang dito ang kakayahan ng magsasaka at kung hindi niya ito makakaya, dito papasok ang pamahalaan. Kaya, batay din ito sa affordable cost na makakaya ng magbubukid o sa kanyang limitasyon. Iyon ang pagkaunawa natin kanginang umaga. Maaari ring market value, kaya ang primary consideration ay ang kakayahan ng magsasaka. Kung ano ang hindi kaya ng magbubukid, dadagdagan ng pamahalaan. That is our understanding. Kailangang just din ang kabayaran doon sa pagmumulan ng lupa.

MR. TADEO: That is only a clarification.

MR. BENGZON: Madam President, may we vote now on the whole section?

MR. RODRIGO: May I request that the whole section be read?

MS. NIEVA: Yes, may we read the whole section.

THE PRESIDENT: Please read the whole section.

BISHOP BACANI: Just a moment, Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: Do we understand that there has been an addition of meaning or a change of meaning which was explained this morning? I ask this because think it was insisted that "just compensation" is the compensation paid to the landowner.

MS. NIEVA: To the landowner. Yes.

BISHOP BACANI: And that is the prime consideration there?

MR. BENGZON: Yes.

BISHOP BACANI: Whether it will then be subsidized by the government, I hope that that is not lost.

MR. BENGZON: No, it is not lost, Madam President.

MS. NIEVA: Section 5 now reads as follows: "The State shall by law undertake an agrarian reform program founded on the basic right of farmers and regular farm workers; who are landless, to own directly or collectively the lands they till or, in the case of other farm workers, receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as Congress may prescribe, taking into account ecological, developmental or equity considerations and subject to the payment of just compensations. The State shall respect the rights of small landowners in determining retention limits. The State shall further provide incentives for voluntary land-sharing."

MR. REGALADO: Madam President, just a clarification. Was there a comma after "farm workers" so that the phrase "who are landless" will refer to both regular farm workers and farmers?

MS. NIEVA: Yes. I am sorry I did not mention the comma.

MR. REGALADO: Thank you.

THE PRESIDENT: Will the Chairman of the Committee please read again the last two sentences.

MS. NIEVA: "The State shall respect the rights of small landowners in determining retention limits. The State shall further provide incentives for voluntary land-sharing."

VOTING

THE PRESIDENT: Those in favor of this proposed amendment to Section 5, as read by the honorable Chairman, will please raise their hand. (Several Members raised their hand.)

Those against will please raise their hand. (No Member raised his hand.)

The results show 36 votes in favor and none against; the amendment to Section 5 is approved.

MR. RAMA: Madam President, I ask that Commissioner Davide be recognized to amend Section 6.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Madam President.

The amendment on Section 6 would only be to delete the newly incorporated words "research and development" on the second from the last line, the reason being that this is already included in the word "technology." We cannot have technology without research and its development.

MR. BENNAGEN: How about deleting "and development" only?

MR. DAVIDE: No, I propose to delete "research and development."

MR. BENNAGEN: Let me explain why I insist that "research" should be here.

THE PRESIDENT: Commissioner Bennagen may proceed.

MR. BENNAGEN: Yes, Madam President.

In various studies on agrarian reform, it has been shown that many agricultural practices are location-specific; meaning, that agricultural practices in the United States, in China, or in India, are not necessarily transferable to Philippine conditions. And even within Philippine conditions, specifically because of the great variability of ecological conditions, one cannot easily generalize, and, therefore, it is necessary to have site-specific or location-specific research and development. I am willing to have "and development" be stricken off, but not "research."

MR. DAVIDE: I will agree, in view of the explanation. So, only the words "and development" should be stricken off.

MR. BENNAGEN: Yes.

MS. ROSARIO BRAID: Madam President, may I be recognized. This is an amendment to Commissioner Davide's.

MR. RAMA: I ask that Commissioner Rosario Braid be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: I am glad that "research" is retained, but I wonder if we could include TRAINING instead of "development" the deletion of which I accept, so that the phrase reads: "research and TRAINING" because "training" is very important.

MR. DAVIDE: Madam President, I believe that "training" is already included in "technology" because how can the government transfer technology to the farmers and the farm workers without the necessary training for said technology? So it is inherent in technology.

THE PRESIDENT: Is the Commissioner satisfied?

MS. ROSARIO BRAID: I withdraw then with that explanation.

THE PRESIDENT: Is there any other comment?

MS. NIEVA: We accept the amendment of Commissioner Davide deleting the words "and development," so the phrase reads: "appropriate technology and research."

THE PRESIDENT: Are we ready to vote now on the proposed amendment of Commissioner Davide which has been accepted by the Committee?

Is there any objection to this proposed amendment? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: Madam President, for another amendment to the same section, I ask that Commissioner Rosario Braid be recognized.

THE PRESIDENT: Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Madam President, on the same section, I propose to delete "and marketing assistance" and to substitute it with the words SUPPORT SERVICES, so that it will read: "and adequate financial, production SUPPORT SERVICES." The reason is that there are other important services; namely, post harvest technology and extension services. If we include marketing, then we might as well include all the other support services. Post harvest technology, if I may explain, includes storage, abattoirs and processing systems. And these are different from marketing systems, so I propose to delete "and marketing assistance" and in lieu thereof, insert SUPPORT SERVICES after the word "production."

MS. NIEVA: Madam President, we accept the amendment.

MR. DAVIDE: Madam President.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: I would like to introduce an amendment to the amendment by retaining "and marketing assistance" and adding what have been stated, AND OTHER SUPPORT SERVICES. So, after "production," delete the word "and" and after "assistance," add the following: AND OTHER SUPPORT SERVICES.

THE PRESIDENT: Is that acceptable to Commissioner Rosario Braid?

MS. ROSARIO BRAID: It is accepted.

THE PRESIDENT: How about the Committee?

MS. NIEVA: If it is acceptable to Commissioner Rosario Braid, the Committee accepts.

THE PRESIDENT: Is there any objection to this proposed amendment of Commissioners Rosario Braid and Davide which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: On the same section, Madam President, I ask that Commissioner Rigos be recognized.

REV. RIGOS: Madam President, I propose a minor amendment in the first portion of the sentence which says:

The State shall recognize the right of farmers and farm workers, of cooperatives and other independent farmer's organization and land owners . . .

by placing the word "landowners" immediately after "farm workers" so that we refer to people first — farmers, farm workers and landowners — then followed by cooperatives and organizations which are associations. So we just put them together.

MS. NIEVA: The Committee accepts, Madam President.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: For the last amendment to Section 6, I ask that Commissioner Davide be recognized.

THE PRESIDENT: Commissioner Davide is recognized.

MR. DAVIDE: This is a very minor amendment, Madam President. After the word "organization" on the third line, add S and transpose the apostrophe, "farmer's" to after "s," so it should be "farmers' ORGANIZATIONS."

THE PRESIDENT: Does the Committee accept?

MS. NIEVA: Yes, it is just a small spelling error, a perfecting amendment.

THE PRESIDENT: Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: There are no more proponents to amend Section 6, Madam President, so I ask that we take a vote on the whole Section 6.

MS. NIEVA: Section 6 reads: "The State shall recognize the right of farmers, farmworkers and landowners, of cooperatives and other independent farmers' organizations to participate in the planning, organizing, and management of the program and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services."

MR. DAVIDE: It should be "marketing assistance."

MS. NIEVA: Yes, I am sorry. It is "marketing assistance, and other support services."

MR. DE LOS REYES: Madam President.

THE PRESIDENT: Commissioner de los Reyes is recognized.

MR. DE LOS REYES: Can we not substitute "organizing" with ORGANIZATION? I think the phrase should be "the planning, ORGANIZATION. . ."

MR. BENGZON: We accept, yes.

MS. NIEVA: We accept.

MR. DE LOS REYES: Thank you.

THE PRESIDENT: Is there any objection to Section 6? (Silence) The Chair hears none; the amendment is

approved.

MR. RAMA: On Section 7, Madam President, I ask that Commissioner Ople be recognized.

THE PRESIDENT: Commissioner Ople is recognized.

MR. OPLE: Thank you, Madam President.

On behalf of Commissioner Nollado and myself, may we propose an amendment in the form of an additional sentence which can be indented as a new paragraph under Section 7, which reads as follows: THE STATE MAY RESETTLE THE LANDLESS WORKERS IN ITS OWN AGRICULTURAL ESTATES WHICH SHALL BE DISTRIBUTED TO THE BENEFICIARIES ACCORDING TO THEIR QUALIFICATIONS.

The reason for this amendment, Madam President, is that the State itself may want to establish model estates for agrarian reform and, as a matter of fact, this was the preeminent form of agrarian reform initiated by President Magsaysay in 1953 when the NARRA Settlement was established in Palawan and earlier when the EDCOR was established in Mindanao. This will complement the first part of Section 7 which deals with the lands of the public domain suitable to agriculture under lease or concession, but in this case it is the State that sets up the model agrarian reform estates at its own expense just like in the case of the two examples that I cited.

May I point out that in Indonesia this is the principal mode of land reform where approximately five million people have been transferred from overcrowded Java to the outer islands of Indonesia through what they call a transmigration policy which, of course, is supported by irrigation, one year of free subsistence, donation of all the tools required for cultivation, and amenities like schools and clinics.

So it is in that spirit that we propose this amendment, Madam President.

MS. NIEVA: May we ask Commissioner Ople whether the term "WORKERS" would include the landless, farmers or industrial workers.

MR. OPLE: I am referring mainly, in this instance, to the landless agricultural workers who do not even till their own plot of land and who, according to the statistics of the NEDA, are now far in excess, numerically speaking, of those engaged in tenancy or sharecropping. And that is why as the arable land keeps stable and the population keeps exploding, we have this phenomenon of millions of landless rural workers who can no longer be accommodated in the farms and, therefore, whose prospect, unlike that of the tenant farmers and the regular farm workers, for ever acquiring land is nil and whose prospect for finding jobs outside of agriculture is also probably nil. And that is the reason why this is just an additional permissive mandate to the State to undertake its own agricultural estates where the landless workers may be given the opportunity to engage in productive work and ultimately own the lands that compromise the government's own agricultural estates.

MR. SUAREZ: Madam President.

THE PRESIDENT: Commissioner Suarez is recognized.

MR. SUAREZ: Thank you, Madam President.

We just would like to clear up the definition of the word "WORKERS" from Commissioner Ople because it might give the impression that it refers to industrial or commercial workers. But I understand from his statement that he is limiting the word "workers" to farmers and regular farm workers.

MR. OPLE: Yes, Madam President.

MR. SUAREZ: Maybe we can change the word "WORKERS" to FARMERS AND REGULAR

FARMWORKERS.

MR. OPLE: I would have no objection to that, although that is a longer term.

MR. SUAREZ: And then after the word "DISTRIBUTED," would the Commissioner have any objection to inserting the phrase TO THEM IN THE MANNER PROVIDED BY LAW?

MR. OPLE: I want to thank Commissioner Suarez for a major improvement on the language of the proposed amendment.

MR. SUAREZ: Thank you.

As the proposal would stand, it reads: "THE STATE MAY RESETTLE THE LANDLESS FARMERS AND REGULAR FARM-WORKERS IN ITS OWN AGRICULTURAL ESTATES WHICH SHALL BE DISTRIBUTED TO THEM IN THE MANNER PROVIDED BY LAW."

MR. OPLE: Yes, Madam President, I accept.

MR. SUAREZ: Thank you.

THE PRESIDENT: Is there any objection to this proposed amendment of Commissioner Ople as revised by the Committee?

MR. OPLE: Commissioners Ople and Nollado, Madam President.

THE PRESIDENT: Is there any objection?

MR. PADILLA: Madam President.

THE PRESIDENT: Commissioner Padilla is recognized.

MR. PADILLA: Why always insist on "REGULAR FARMWORKERS"? Precisely, those who are not regularly employed may be the better beneficiaries or recipients of this State-organized agricultural settlements.

MR. OPLE: I support the Padilla amendment to my amendment with the permission of the Committee.

MR. SUAREZ: The Committee would have no objection to the deletion of the descriptive word "REGULAR" as applied to farm workers, Madam President.

MR. OPLE: Thank you.

THE PRESIDENT: Will Commissioner Suarez read the amendment please.

MR. SUAREZ: It reads: "THE STATE MAY RESETTLE THE LANDLESS FARMERS AND FARMWORKERS IN ITS OWN AGRICULTURAL ESTATES WHICH SHALL BE DISTRIBUTED TO THEM IN THE MANNER PROVIDED BY LAW."

THE PRESIDENT: Is there any objection to this proposed amendment to Section 7?

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: May we ask Commissioner Ople one more question? Is the idea of the State having own agricultural estates for government to set up manage these agricultural estates?

MR. OPLE: Yes, this will be subject to the provisions of Section 6 in which organizations of farmers, workers and

landowners — in this case, the government is the landowner — cooperatives and other independent organizations shall participate in the organization, management and direction of the program.

MR. BENNAGEN: What would be the relationship of the workers to the State and to the agricultural estate? They will just be employed agricultural workers.

MR. OPLE: No. They are resettled there and the term of resettlement is clear in the legal literature. This means that they are potential owners of these lands upon meeting certain standards as may be provided by law.

MR. BENNAGEN: In other words, at some future time, these agricultural estates will be dissolved as State agricultural estates?

MR. OPLE: Yes, and they may, of course, establish their own voluntary system of associating with each other through a cooperative, if they like, or some other mode.

MR. BENNAGEN: Already independent of the State?

MR. OPLE: Yes.

MR. BENNAGEN: I thank Commissioner Ople.

MR. VILLEGAS: Madam President, could I volunteer an information just to concretize the proposal of Commissioner Ople?

THE PRESIDENT: Commissioner Villegas may please proceed.

MR. VILLEGAS: Malaysia has a very successful model that implements the concept of Minister Ople through a government corporation called FELDA, Federal Land Development Corporation which actually distributed small plots of land to farmers. And through a nucleus estate which the government put up that would process, for example, rubber, they helped thousands of small holders of rubber trees to actually productive in the growing of this very important crop. And little by little, the small holders learned how to get together on their own and form cooperatives. This Malaysian model is something that a lot of Filipinos are looking at, not only for the government to implement but also for private sector groups to implement.

MR. LERUM: Madam President, may I be recognized?

THE PRESIDENT: Commissioner Lerum is recognized.

MR. LERUM: I am thinking about industrial workers who lost their employment but want to go back to the province and engage in farming. Are we not discriminating against them if we limit the benefit only to farm workers?

MR. OPLE: I am inclined to support Commissioner Lerum's intervention for laid-off industrial workers who want to go back home and who in the meantime may have no land to go back to.

So, I do not know if the Committee, at this point in time, would be able to accommodate.

MS. QUESADA: Our understanding is that when these workers go to the provinces and end up becoming workers in these agricultural estates, then they become farm workers. So, they would be entitled under this provision.

MR. OPLE: So, they are embraced within the scope of "workers" here?

MS. QUESADA: Yes.

MR. OPLE: Thank you, Madam President.

MR. LERUM: Madam President, as long as that is on record, I am satisfied.

MS. NIEVA: Therefore, the entire additional paragraph of Section 7 reads as follows: "THE STATE MAY RESETTLE LANDLESS FARMERS AND FARMWORKERS IN ITS OWN AGRICULTURAL ESTATES WHICH SHALL BE DISTRIBUTED TO THEM IN THE MANNER PROVIDED BY LAW."

THE PRESIDENT: Does Commissioner Villegas want to say something?

MR. VILLEGAS: Before we vote on Section 7, may I get some clarification about the phrase "in the disposition of other natural resources"?

As we had already discussed previously, there are only three types of public land — mineral, timber or agricultural. Of course, if we decide on the national parks later on, it would be the fourth.

MR. BENGZON: We are not yet on that; we are still voting on the Ople-Nolledo amendment.

MR. VILLEGAS: Yes, Madam President.

THE PRESIDENT: Is there any objection to this particular amendment of Commissioners Ople and Nolledo which has been accepted by the Committee? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: Madam President, I ask that Commissioner Romulo be recognized to make an amendment to the same section.

THE PRESIDENT: Commissioner Romulo is recognized.

MR. ROMULO: Actually I had an anterior amendment, but I did not want to disturb Commissioner Ople.

THE PRESIDENT: The Commissioner may please proceed.

MR. ROMULO: On line 2, I propose that between the words "reform" and "whenever," insert the phrase OR STEWARDSHIP to enable the State to dispose of lands of the public domain under the concept of stewardship.

MS. NIEVA: So, after "agrarian reform" the proposal is to insert "OR STEWARDSHIP."

MR. ROMULO: Yes, so the line would read: "The State shall apply the principles of agrarian reform OR STEWARDSHIP whenever applicable in accordance with law . . ."

MR. TINGSON: Madam President.

THE PRESIDENT: Commissioner Tingson is recognized.

MR. TINGSON: I would like to support this amendment, because the word "STEWARDSHIP" must be applied to the concept of landownership. We are not really the owners of land. When we really analyze it, Madam President, it is God who owns the land. We are only but stewards, so I would like to support the amendment.

THE PRESIDENT: Will Commissioner Romulo explain?

MR. ROMULO: I have explained it, Madam President.

MR. BENGZON: The Committee accepts, Madam President.

THE PRESIDENT: Does Commissioner Villegas have any remark on this?

MR. VILLEGAS: Yes, Madam President, may I clarify this phrase: "disposition of other natural resources." I think only agricultural lands are alienable in the Article on the National Economy and Patrimony. Timberlands and mineral lands are not alienable. What is really the objective of applying agrarian reform to "disposition of

other natural resources"?

MR. MONSOD: Madam President, the word "disposition" there does not mean transfer of title. It may mean, for example, in the case of forest areas, that in the giving of concessions, the people in the community around the forest should be given some preferential attention or treatment. So, that does not necessarily mean transfer of title, and the addition of the words "OR STEWARDSHIP" probably clarifies it even more.

MR. VILLEGAS: And so, even in mineral lands the Committee is also thinking of small-scale mining?

MR. MONSOD: Yes, because as the Commissioner knows, that is also included in the Article on the National Economy and Patrimony where we talk about small-scale utilization of natural resources.

MR. VILLEGAS: As long as the word "disposition" is legally understood not to be synonymous with alienation, then I think it is clear.

MR. MONSOD: Thank you, Madam President.

MR. RAMA: I ask that Commissioner Azcuna be recognized for an amendment to the same section.

THE PRESIDENT: Commissioner Azcuna is recognized.

MR. AZCUNA: Madam President, I just would like to add the words OR UTILIZATION after "disposition" to make it clear that it really refers more to the use of other natural resources since only public lands are alienable.

MR. MONSOD: We accept the amendment.

THE-PRESIDENT: The Committee accepts.

MR. MONSOD: Madam President, may we just explain something. While the word "disposition" does not necessarily mean transferring legal title, we do envisage situations where land which is of the public domain — because we say "including lands of the public domain suitable to agriculture" — becomes available for disposition when the State changes the classification. So, we accept the amendment "OR UTILIZATION."

BISHOP BACANI: Madam President.

THE PRESIDENT: Commissioner Bacani is recognized.

BISHOP BACANI: So that I may vote intelligently, may I just ask Commissioner Romulo to explain what he means by the principle of stewardship, because from the philosophical and theological point of view I find that very laudable; however, I do not know whether there is a legal meaning to it which may be different from that.

MR. ROMULO: Yes, Madam President, I propose it in the legal sense actually; that is, that the individual would have free use or free occupancy but he would not be given a legal title to the land. That is what we call in law as usufructuary.

MR. BENNAGEN: Madam President.

THE PRESIDENT: Commissioner Bennagen is recognized.

MR. BENNAGEN: Nais ko lang idagdag dito iyong nabanggit na ni Commissioner Ople kangina tungkol sa kaso ng mga kainginero. Mahalaga kasi sa mga lugar na classified as forests pero puwedeng agricultural — kasama dito iyong tree plantations na nabanggit ni Commissioner Villegas — na maaari nilang gamitin ang lupa kasama ang principles of agrarian reform; meaning, mayroong complementary structures and services that would support the use of forest lands for agricultural purposes. Ito iyong agro-forestry na tinatawag. Kaya ang punto dito, bagaman hindi ibibigay sa kanila ang titulo ng lupa, magagamit naman nila ang lupa for a certain period of time subject to

renewal. In practice, umaabot ito ng 25 years o 50 years pero the title is never given to them; ito ay kanilang kontrata sa pamahalaan but subject to the principles of agrarian reform. Ang ibig nitong sabihin, susuportahan ito ng pamahalaan sapagkat sa karanasan ng integrated social forestry program, kung walang suporta iyan batay dito sa principles of agrarian reform, lalong nasisira ang gubat at hindi rin umaasenso ang kabuhayan ng kainginero.

MR. RAMA: Since there are no more amendments. . .

THE PRESIDENT: Shall we proceed first to vote on the Romulo and Azcuna amendments as incorporated by the Committee? Will the Committee please read the first three lines?

MS. NIEVA: "The State shall apply the principles of agrarian reform OR STEWARDSHIP whenever applicable in accordance with law IN the disposition OR UTILIZATION of other natural resources . . ."

THE PRESIDENT: Let us vote on those amendments first.

Is there any objection?

MR. RODRIGO: Madam President.

THE PRESIDENT: Commissioner Rodrigo is recognized.

MR. RODRIGO: Before we vote, in Section 5, the State shall undertake an agrarian reform program to enable the farmers and regular farm workers to own the land. As a matter of fact, this was the subject of my interpellation — ownership of the land.

Now, in this Section 7, we use "STEWARDSHIP" but we also say we apply the principles of agrarian reform. Does this mean that the words "to own" also apply to Section 7?

MS. NIEVA: I think that was explained, that in many instances where the lands belong to the government and may not be alienated, they will not receive the title. As it was stated here as an example, the 600,000 kaingineros — of whom Commissioner Ople was very concerned — can take advantage of the utilization of these natural resources, receiving the support of the State. And this is what we mean by the principles of agrarian reform — that the State shall give them all the support and the assistance that they would need to be successful in their utilization of these natural resources, but they will not receive the titles.

MR. RODRIGO: Not to own?

MS. NIEVA: Not to own.

MR. RODRIGO: Madam President, I would like to ask Commissioner Ople because he said that in then case of what we call government estates, eventually these will be partitioned so that the farmers can own them.

MR. OPLE: This will lead directly to ownership, Madam President.

In the case of the agricultural estates established by the government itself and where the government is the landowner, there is no obstacle to the distribution of the lands on an ownership basis. In the case of the kaingineros, I think what prevents the conferment of titles of ownership is precisely certain classifications of lands. So that if ownership cannot yet be vested because of these problems of classifications, then a stewardship contract is issued to them which, I understand from the Ministry of Natural Resources, can even be negotiable in terms of a collateral in a bank. It is that important a piece of paper, not yet equivalent to ownership, but it vests certain attributes of ownership to the kaingineros who have been issued this stewardship contract.

I think this is related to the usufruct right that Commissioner Romulo had earlier talked about, which means that under conditions of usufruct one is, for all purposes, the owner except that there might be no infinity built into his

ownership. Most usufruct would terminate in 50 years. In Europe usually it is 99 years. And so these are all the attributes of ownership except in perpetuity.

MR. RODRIGO: There is no such thing as infinite in this world. So when I say, "I am the owner," it is understood that it is not infinite because I am not infinite; not even this world is infinite.

What I would like to clarify is this: What is the underlying philosophy of Section 7? Can the beneficiaries of Section 7 own, or may they only be stewards of the land? I ask so because in Section 5, it is ownership.

MR. OPLE: The Committee can speak for itself, but before I resume my seat, may I just say that as soon as the conditions ripen into ownership, then nothing should prevent vesting the full ownership in the holder of a stewardship or a usufruct contract.

Thank you, Madam President.

MR. RODRIGO: That is why I come back to my question: What is the underlying philosophy of Section 7? Would the farmers under this section eventually own the land, or would they be only stewards of the land?

MR. MONSOD: Madam President, it would depend on the natural resources we are talking about.

MR. RODRIGO: Let us say disposable public land.

MR. MONSOD: If it is an alienable and disposable public land, then they may acquire title. As a matter of fact, in applying the principles of agrarian reform, the State should start with its own backyard, which are alienable and disposable public lands suitable to agriculture.

MR. RODRIGO: In this Section 7, is the philosophy of "land to the tiller" also applicable as it is applicable in Section 5? In Section 5, the heirs or the children of the owner may not inherit the land; the owner may not dispose of nor sell the land. Is that true also of Section 7?

MR. MONSOD: Yes, it would apply, but it would be applied a little differently if we were talking about forest land. For example, where the land itself is not alienable but one has a concession to utilize the forest, then the laws on forestry would apply, except that there would be preferential treatment of the communities.

MR. RODRIGO: I am speaking of disposable, alienable public land.

MR. MONSOD: Yes, it would apply.

MR. RODRIGO: So the same limitations on the ownership of the farmers and farm workers under Section 5 would apply to the beneficiaries of Section 7?

MR. MONSOD: That is right, that is precisely why we say "the principles of agrarian reform."

MR. RODRIGO: I thank the Commissioner.

THE PRESIDENT: Are we ready to vote?

MR. BENGZON: Madam President, we just want to emphasize that in Section 7, the coverage is wider because there is mention here of "other natural resources." And so, in the case of timberlands and mineral lands, the principles of agrarian reform by way of ownership and grant of title will not apply. That is where the principle of stewardship will apply.

VOTING

THE PRESIDENT: Those in favor the proposed amendments of Commissioners Romulo and Azcuna as incorporated by the Committee will please raise their hand. (Several Members raised their hand.)

Those against will please raise their hand. (No Member raised his hand.)

The results show 31 votes in favor and none against; the two amendments are approved.

MR. RAMA: Madam President, may I ask the Chairman of the committee to read the entire section as amended.

MS. NIEVA: Section 7 shall now read as follows: "The State shall apply the principles of agrarian reform or stewardship whenever applicable in accordance with law in the disposition or utilization of other natural resources, including lands of the public domain suitable to agriculture under lease or concession, subject to prior rights, homestead rights of small settlers and the rights of indigenous communities to their ancestral lands.

The State may resettle landless farmers and farmworkers in its own agricultural estates which shall be distributed to them in the manner provided by law."

THE PRESIDENT: Is there any objection?

MR. TADEO: Madam President, for clarification. Prior rights refer to previous rights of indigenous cultural communities and settlers over the land on which they live and cultivate or use for livelihood.

MR. BENGZON: That is among others, Madam President.

THE PRESIDENT: So are we ready now to vote?

Is there any objection to Section 7, as amended? (Silence) The Chair hears none; Section 7, as amended, is approved.

SUSPENSION OF SESSION

THE PRESIDENT: The Chair calls for a suspension of the session for a few minutes.

It was 4:57 p.m.

RESUMPTION OF SESSION

At 5:29 p.m., the session was resumed with the Honorable Florenz D. Regalado presiding.

THE PRESIDING OFFICER (Mr. Regalado): The session is resumed.

The Floor Leader is recognized.

MR. RAMA: Mr. Presiding Officer, I ask that Commissioner de los Reyes be recognized to present amendments to Section 8.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: This amendment is a joint amendment of Commissioner Teodulo Natividad, myself and the honorable Presiding Officer.

On Section 8, line 1, delete the word "preferential" between the words "the" and "rights"; insert the word PREFERENTIAL between the words "the" and "use" on line 3; and insert the word COMMUNAL between the words "of and "marine" on the same line, so that the sentence will read: "The State shall protect the rights of

marginal fishermen and local communities to the PREFERENTIAL use of COMMUNAL marine and fishing resources, both inland and offshore, particularly municipal fishing grounds."

The other sentence will be amended correspondingly so that the section will not be too long.

MS. NIEVA: The Committee accepts.

MR. DAVIDE: Mr. Presiding Officer.

MR. NATIVIDAD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Natividad is recognized.

MR. NATIVIDAD: Will the distinguished proponent please yield to some questions?

MR. DE LOS REYES: Yes, willingly.

MR. NATIVIDAD: The phrase "direct or communal" was deleted by the Committee. I am with the Commissioner in this amendment to retain "communal" because it might give rise to an impression that communal fishing grounds — as we know it now and as should be reserved in the future by future Congresses — are being frowned upon. I welcome the use of the words "communal fishing grounds" because this is the only way we can give preferential rights to marginal or poor fishermen. Ang ibig ko pong sabihin, ang mahihirap na mangisingda, katulad din ng mga mahihirap na magsasaka, ay isang kahig, isang tuka lamang. Hindi po nila kayang mabuhay kung sasabihin nating mangisda sila sa dakong ilalim ng karagatan, sapagkat wala silang kasangkapan o walang bangka. Therefore, even if we place in the Constitution the word "preferential," it is a hollow word if we do not reserve an area for them in terms of communal fishing grounds where those in the same situation in life — iyong mahihirap na ang tanging kasangkapan ay iyon lamang generator, isang bangka at isang maliit na lambat — can earn their livelihood.

The other thing I would like to note in this amendment, in which I am joining the Commissioner, is the matter of municipal fishing grounds. Doon po sa lalawigan ng Bulacan ay mayroong tinatawag na propyos — propyos ng Hagonoy propyos ng Paombong, atbp. Ang ibig sabihin ng propyos ay municipal fishponds or municipal fishing grounds, which are properties of the municipality since time immemorial. I think we should use another term to avoid confusion. And these fishponds are not communal fishing grounds. Sa communal fishing grounds, basta mababaw na pook ng dagat, lahat ay makapanghuhuli ng hipon at lahat ng uri ng maliliit na isda. Hindi bawal sa sinuman ang pumasok diyan, basta't hindi lang gagamit ng heavy equipment. Iyan ang concept ng communal fishing grounds. So I would suggest that "municipal fishing grounds" should have another name because they might be confused with the municipal fishponds that we have in many provinces. Sa mga propyos, hindi maaaring manghuli ng isda because these are fishponds being leased or operated by municipalities for added income of the municipalities. And nobody can fish there because these are all encircled by dikes. Therefore, they should not be confused with these municipal fishing grounds in this article which, to my mind, are communal fishing grounds.

I also agree with the use of the word "conservation" because I believe that the State should not only develop these areas but should also conserve or protect them from foreign encroachment and from encroachment of rich fishermen or fishpond owners. Sapagkat sa aktuwal na situwasyon, maraming lalawigan ang dapat nating tingnan. The borders of communal fishing grounds are fishponds. And the fishpond owners, by operation of law, extend the boundaries of their fish ponds. Ang tawag namin dito sa Bulacan ay "naglalabas ng palaisdaan," naglalagay ng pilapil upang sakupin ang palaisdaang bayan. That is why I would like to inject into this debate that the conservation of these communal fishponds should include their protection from encroachment of rich fishermen and fishpond owners which has been the root of many historic struggles between the rich and the poor, in this

case, between the rich fishermen and the poor fishermen. Kaya kung tayo man ay nagpapakita ngayon ng pagmamahal sa mga magsasaka, nais nating sabihing kasama sa ating pagmamalasakit dito ang mahihirap na mangingisda.

Salamat po.

MR. SUAREZ: Mr. Presiding Officer.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Davide is recognized.

MR. DAVIDE: I would like to inquire from the proponent certain matters.

MR. DE LOS REYES: Yes.

MR. DAVIDE: Would the use of the word "COMMUNAL" as proposed by the Commissioner now qualify marine and fishing resources?

MR. DE LOS REYES: That is correct.

MR. DAVIDE: So, may Congress set aside certain areas as communal marine and fishing areas?

MR. DE LOS REYES: No. Pursuant to Commissioner Davide's explanation yesterday, Congress may not do that because all these lakes are communal.

MR. DAVIDE: That was precisely the idea of my earlier proposal to delete the words "the direct or communal use." Now, under the Commissioner's proposal, he would in effect allow Congress to define what area within the marine and fishing resource area should be considered communal, not the entire area itself.

MR. DE LOS REYES: On the contrary, it will prevent Congress from doing what the Commissioner envisions.

MR. DAVIDE: In other words, under this proposal, the meaning would be that all marine and fishing resources must be communal.

MR. DE LOS REYES: Yes.

MR. DAVIDE: If that is the meaning, I would have no objection to it. The purpose of my inquiry was precisely to prohibit Congress from defining a particular area as the only communal area.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): What is the position of the Committee?

MR. SUAREZ: Mr. Presiding Officer, may we just ask the proponent a clarificatory question?

MR. DE LOS REYES: Yes.

MR. SUAREZ: Is our understanding correct that the communal character would be applied to fishing grounds and resources and not to their use?

MR. DE LOS REYES: No, the use is preferential. In the light of the query yesterday of Commissioner Ople whether, for example, fishermen from Bulacan going to Quezon will be denied the use of the communal fishing grounds, the answer of the Committee was that that was not the intention, but with preferential right to marginal fishermen and local communities.

MR. SUAREZ: Because as originally proposed by the Committee, it would be communal use rather than

communal marine and fishing resources. But the intention is clear here that what the Commissioner wants to be owned by the community are the fishing resources and grounds?

MR. DE LOS REYES: Yes.

MR. SUAREZ: And the use will be preferential in character for the marginal fishermen?

MR. DE LOS REYES: Yes.

MR. SUAREZ: Thank you.

MR. MONSOD: May I just ask the proponent a question?

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Monsod is recognized.

MR. MONSOD: Did I hear the Commissioner correctly when he said that all marine and fishing resources are now classified as communal? Just an amplification of the question of Commissioner Davide: Does this Article contemplate that all marine and fishing resources are now communal, or does this say that the preferential use shall be only to those considered communal marine and fishing resources?

MR. DE LOS REYES: It is the preferential use of communal and fishing resources.

MR. MONSOD: Are there marine and fishing resources that are not communal?

MR. DE LOS REYES: None, because "communal" qualifies marine and fishing resources.

MR. MONSOD: What about the fishponds, what do we call those?

MR. DE LOS REYES: The fishponds not situated in lakes and rivers are different; these are already private property. That is precisely the intention of the amendment, to do away with fish pens situated within lakes and rivers which properly belong to the people and to the State. Under land reform, we are taking away private property and giving it to the poor, but with regard to lakes and rivers, we are doing the reverse. The lakes which are communal in nature are instead being given or allocated to the rich to the exclusion of the marginal fishermen.

MR. MONSOD: Is the Commissioner saying that with this definition, fish pens would no longer be allowed?

MR. DE LOS REYES: That will be the ultimate effect in communal lakes.

MR. MONSOD: What about Laguna de Bay? In specific terms, would this Article now prohibit the granting of licenses to have fish pens in Laguna de Bay?

MR. DE LOS REYES: That is the intent of the amendment, Mr. Presiding Officer.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner de Castro is recognized.

MR. DE CASTRO: May I ask the proponent a questions?

MR. DE LOS REYES: Yes.

MR. DE CASTRO: What does the Commissioner mean by "marginal"?

MR. DE LOS REYES: "Marginal" is not my term; that is the definition of the Committee and, therefore, the Committee should answer that question.

MR. DE CASTRO: May I know the meaning of "marginal"?

THE PRESIDING OFFICER (Mr. Regalado): Let us hear from the Committee.

MS. NIEVA: By "marginal" I think we are referring to the small fishermen.

MR. DE CASTRO: What does the Committee mean by small fishermen?

MS. NIEVA: Those who do not operate large fishing fleets and so forth; those who are barely eking out their living from fishing.

MR. SARMIENTO: Mr. Presiding Officer, may I just volunteer this information or data on small fishermen.

THE PRESIDING OFFICER (Mr. Regalado): Let us hear from Commissioner Sarmiento.

MR. SARMIENTO: According to IBON facts and figures, the Bureau of Fisheries and Aquatic Resources estimates that there are 550,731 municipal fishermen. They are distinguished by the fact that they operate in coastal waters less than seven fathoms deep, using motorized or nonmotorized bancas weighing less than three gross tons. Because of the seasonality of fish, municipal fishermen operate only on an average of five hours a day, twenty days a month and six months a year.

MR. DE CASTRO: Thank you.

May I ask another question. Does that mean that if one operates a banca weighing less than three tons, he is a small fisherman?

MR. SARMIENTO: Yes, according to this information.

MR. DE CASTRO: In Laguna de Bay, fishermen, including big fishpen operators, use bancas weighing less than a ton, say, 16 horsepower. Are they small or marginal fishermen?

THE PRESIDING OFFICER (Mr. Regalado): What does the Committee say?

MS. NIEVA: May we have the question again?

MR. DE CASTRO: From the definition of Honorable Sarmiento, he said that the fisherman's banca must weigh more than three tons for him to be classified as a big fishermen. But in Laguna de Bay, big fish pen operators have a banca less than one ton using the Briggs and Stratton 16 horsepower, a small engine. Is he classified a small fisherman?

MR. MONSOD: By the Gentleman's own definition, he would not be a small fisherman because the classification is not only on the size of the banca.

MR. DE CASTRO: What is the other classification?

MR. MONSOD: Apparently, there are other considerations such as the size of the holding and the capitalization required. These are all the considered criteria for determining if a fisherman is small or big.

MR. DE CASTRO: That is not the definition offered by the Honorable Sarmiento. Does the Gentleman mean to say that his definition is not the definition of the small fisherman?

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Sarmiento is recognized.

MR. SARMIENTO: May I give this additional information because the municipal fishermen were classified into two sectors and I think marginal fishermen will fall under this second sector. The first sector includes those who use motorized bancas and fishing gears; the second includes those who use only wooden bancas and who are

equipped only with hook and line and/or small nets. The Ministry of Natural Resources estimates that there are 600,000 of the latter sector called subsistence fishermen. I think these are the marginal fishermen.

MR. DE CASTRO: So, if a fisherman uses a wooden banca with a small-powered motor, principally perhaps the Briggs and Stratton 16 horsepower, and uses hook and line.

MR. SARMIENTO: Equipped with hook and line and/or small nets.

MR. DE CASTRO: How small will that net be?

There are what we call small fishermen in Laguna de Bay using nets of about 5 kilometers long known as pukot. They are people who are poor, fishing in Laguna de Bay using about 5 kilometers long of net and using diesel bancas and yet are still considered small fishermen. That is why I would like to have a definition of a small fisherman because it is possible that very small fishermen who depend all their life on fishing may be excluded.

MS. NIEVA: That is why we have used the word "marginal."

MR. DE CASTRO: Then what is "marginal"?

MS. ROSARIO BRAID: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: I think there are criteria like the annual income of the family. The marginalized fishermen, according to research, are usually below the poverty-threshold income and are usually the ones who join fishermen's associations in order that they can get loans and marketing and technical assistance.

A project called FIRM has organized all the marginalized fishermen, of which there are about 3,843. They are all below the poverty income which is one criterion added to what we have said earlier. According to a survey, 40 percent own their boats and only 20 percent own any land. This is probably what would qualify them to become marginalized fishermen.

MR. DE CASTRO: I will give an example.

In our place, there is a man who is a fisherman since birth. In fact, he seldom uses clothes on his back and his hair is already red because he is always fishing in the sea. He was able to build a good house made of hollow blocks and cement because of his fishing and is now considered one of the richest fishermen there. He uses about three or four bancas powered by a Briggs and Stratton 16 HP. He has about five or ten "baklads" connected with fish pens and catches a good amount of fish everyday. He earns a much better earning than a regular employee, earning perhaps P1,500 a month. Is he a marginal fisherman under this term? If he is not a marginal fisherman, then he will not have the right, the preferential right, to fish in Laguna de Bay.

I want to make this clear because he may say, "I am a small fisherman" and yet he earns more than what a regular employee or a lawyer in our place earns.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Bengzon is recognized.

MR. BENGZON: On the basis of all these observations and doubts of Commissioner de Castro, may we, therefore, hear his amendment, if he has formulated one.

MR. DE CASTRO: I have not formulated any amendment. I would like first to understand what is meant by "marginal" and what is meant by "small."

MR. BENGZON: I think when the Committee says "marginal fisherman," it refers to one who subsists marginally through fishing.

MR. DE CASTRO: So, the Gentleman means a fisherman who lives on a hand-to-mouth existence?

MR. BENGZON: That is the meaning that the committee contemplated when it used that word "marginal." If the honorable Commissioner has some difficulties with respect to its interpretation, we would be happy to consider his amendment.

MR. DE CASTRO: I will think about it.

May I ask another question of the proponent?

BISHOP BACANI: Mr. Presiding Officer, just a clarification.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Bacani is recognized.

BISHOP BACANI: It would not be correct to say that a fisherman, if he is not classified as "marginal," would not be allowed to use marine and fishing resources. He will not only be allowed preferential use. That is what would not be allowed unless he falls under "and local communities." But I do not think it would be accurate to say that he would be banned from using such resources because he is not a marginal fisherman.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Bengzon is recognized.

MR. BENGZON: There is a pending issue at hand and that is the amendment of Commissioner de los Reyes with respect to the definition of "communal." I suggest that we dispose of that issue first before we get entangled in another issue as to the definition of small marginal fishermen and other questions, so that we will have some kind of order.

MR. DE CASTRO: Then I reserve my other questions to the proponent.

MR. RAMA: On the same issue as proposed by Commissioner de los Reyes, I ask that Commissioner Villegas be recognized.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Villegas is recognized.

MR. VILLEGAS: Mr. Presiding Officer, may I make clarification? I think I was in error when I referred to the four categories — agricultural, forest, mineral lands and, if possible, national parks as categories of natural resources. Those are the categories of lands of public domain. What we have decided in Section 7 is to apply the principles of agrarian reform or stewardship to all the natural resources which include water, mineral coal, petroleum and other mineral oil, all force of potential energy, fisheries, forests, flora and fauna and other natural resources. So, I would like to clarify the implication of Section 7 as applying to all the natural resources and not only categories of public lands that I referred to earlier. In this regard, I would like to disagree with the suggestion that communal waters like Laguna de Bay be so defined to prohibit fish pens. I think there is a provision in the Article on National Economy that the State can limit the use of water rights for irrigation, water supply, fisheries or industrial uses other than development of water power to beneficial use. It would prejudice eight million consumers of fish, for example, in Metro Manila if we do not allow a highly productive technology of fish farming that can be given to specific entrepreneurs who can actually fish, have fishponds of bangus or other types of freshwater fish. As long as we have the preferential rights given to these marginal fishermen, I do not think we should completely prohibit the State from giving this type of natural resources to individuals who can productively make use of these waters for the benefit of eight million consumers of fish in Metro Manila. That is

why it is very much parallel to the concept of agrarian reform where we do not prohibit the private cultivation of land by individuals. We have, for example, the retention limit. So, I would object in saying categorically that fish pens are prohibited in communal waters like Laguna de Bay.

MR. DE LOS REYES: Will Commissioner Villegas answer one question?

THE PRESIDING OFFICER (Mr. Regalado): Commissioner de los Reyes is recognized.

MR. DE LOS REYES: In his experience and studies, does the Gentleman know of any other country that allows its lakes and rivers to be fenced in such a manner that a few moneyed people are able to exclude the marginal fishermen from fishing in the communal fishing grounds?

MR. VILLEGAS: Yes, definitely. In fact, Nigeria has imported Philippine technologists to teach her how to do inland fish farming.

MR. DE LOS REYES: Aside from Nigeria.

MR. VILLEGAS: There are not so many countries like the Philippines that have developed the indigenous technology of fish farming. Actually, for the information of the body, we are the pacesetters in the world in fish farming, and I think it would be very much inimical to the very interest of the poor. Remember that 50 percent of the diet of the poor depends on fish, and if we start preventing technology from being used in the cultivation of water resources — I repeat, I am not against the application of the principles of agrarian reform and stewardship to the marine resources; I am very much in favor but I think we cannot be exclusivists — and say that absolutely no use of communal waters will be allowed for a technology that has been evolved through the years in the Philippines . . . Just to allay the fears about the small fishermen, we are also recommending in the Article on the National Economy that priority be given to cooperative fish farming in rivers, lakes, bays and lagoons. So, in the same way that in agrarian reform we say direct use or collective use of land, we can also include in the provision for small fishermen that they can get together and, in a cooperative way, take advantage of the technology of fish farming. But it does not mean that we cannot completely prohibit a private individual from doing the same thing.

MR. DE CASTRO: Mr. Presiding Officer.

MR. DE LOS REYES: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner de los Reyes will first reply to the clarification of Commissioner Villegas.

MR. DE LOS REYES: Ako ay walang tutol na magkaroon tayo ng teknolohiya upang lalong maging masulong ang pangangisda. Subalit hindi ito dapat gawin sa Laguna Lake at sa iba pang communal fishing grounds. Dapat itong gawin sa mga inland fishing grounds. Kaya ko ipinaglalaban ang sampung libong mangangisda na naninirahan sa paligid ng Laguna at Rizal ay madali silang mahihikayat ng ating mga kapatid sa labas na lumaban sa kasalukuyang sistema ng ating pamahalaan sapagkat sinasabi ng ating mga kapatid sa labas na ang ating batas ay para sa mayayaman lamang. Kapag sinimulan nating bigyan ng pagkakataon ang mga fishpen operators, wika nga ni Ka Blas Ople, in the real world ay hindi naman magiging preferential lamang. Unti-unting mawawala ang small fishermen at magiging katulad ng mga American-Indians na sinasabing hindi pipinsalain subalit unti-unting napapapunta sa Indian reservations. Iyon po ang aking ipinaglalaban dito. Sampung libong pamilya ang nahihikayat na ng ating mga kapatid na sinasabi nating naliligaw ng landas. Gusto nating magkaroon ng pagkakataong ipakita sa kanila na sila ay hindi nalilimutan ng pamahalaan.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): We will hear briefly from Commissioner de Castro on a point of

information.

MR. DE CASTRO: May I offer some information in the light of the fact that we are talking about Laguna Bay. Laguna Bay has an area of 90,000 hectares. The Laguna Lake Development Authority has limited the fish pens to about 21,000 hectares and only in a certain area, the reason being that it really supplies a greater amount of fish in Metro Manila and these fish pens employ approximately 5 to 10,000 employees in their fish pens. Also, with fish pens given the right to be built in Laguna de Bay, all the places beginning from Ilocos down to the southernmost of Mindanao have a good way of living because of catching the fries — 'yung kawag na tinatawag na nagiging bangus. Ngayong mga panahong hindi pa dumarating ang bagyo, maraming kawag sa Ilocos Norte, Zambales, Bataan hanggang Aurora, then down to Zambales, to the whole Bicol region, Palawan, Mindoro and the whole Visayas up to Zamboanga. Ang hanapbuhay ng mga tao sa tabi ng dagat ay manghuli ng kawag at sila ay kumikita ng malaki rito. At ang mga kawag na ito ay kailangan sapagkat ginagamit ng ilang fish pens sa Laguna de Bay.

Will the proponent answer one question?

MR. DE LOS REYES: Yes, Mr. Presiding Officer.

MR. DE CASTRO: Is the Gentleman aware that there are fish pens established by the so-called small fishermen through the ADB-OPEC funding?

MR. DE LOS REYES: There is such a program and I also know that these fishermen who claim to be fishermen are not really fishermen but dummies of moneyed people.

MR. DE CASTRO: So, the Gentleman wants to say that the LLDA has manipulated this money for ADB-OPEC, which money was taken from the Organization of Petroleum Exporting Countries through a loan and then given to the LLDA for the construction of fish pens of supposedly small fishermen who have established themselves into cooperatives. Is the Gentleman now telling me that the ADB-OPEC funds have been misused by the LLDA?

MR. DE LOS REYES: I am not saying that the LLDA is deliberately misusing the OPEC funds. What I am saying is that even the LLDA people are being misled by these people who act as dummies of the moneyed class.

THE PRESIDING OFFICER (Mr. Regalado): With this information given to us and the statistical data made available, what is the position of the Committee?

MR. VILLEGAS: May I just say something, Mr. Presiding Officer.

MR. MONSOD: Mr. Presiding Officer, there has been no proposal for amendment.

But perhaps Commissioner de los Reyes, and even Commissioners Natividad and Davide, can summarize what we discussed regarding the proper definition of communal marine and aquatic resources.

MR. VILLEGAS: May I have one last word please; one final reaction.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Villegas may proceed.

MR. VILLEGAS: I think we are already treading in legislation because we are talking about Laguna de Bay. I think I would completely agree with Commissioner de los Reyes regarding the general principle he mentioned that there are other inland waters that can be used for fishpens. I think he did admit already that in principle he is not against having other inland waters.

The only bone of contention right now is whether or not Laguna de Bay is going to be included among these bodies of water.

MR. MONSOD: May I just interrupt. The reason I wanted Commissioner de los Reyes to speak is that earlier we had asked him if his amendment automatically means that the entire Laguna de Bay, as an example, is considered a communal marine and fishing resource. We would want to seek a clarification of his answer because his initial answer was that the entire Laguna de Bay can be considered communal. That is the reason we wanted a clarification. Perhaps, that could also help the Gentleman's concern.

THE PRESIDING OFFICER (Mr. Regalado): What does Commissioner de los Reyes say?

MR. DE LOS REYES: After conferring with Commissioners Natividad and Davide and explaining to me the situations obtaining in their respective provinces, I am beginning to believe that we should have senators so that they will have parochial views. I think I might be having parochial views with regard to Laguna de Bay.

But, according to Commissioner Natividad, the shallow portions should be considered communal because that is where the marginal fishermen could fish. But the deep portions of bays, rivers or lakes are where marginal fishermen could not fish. Therefore nonmarginal fishermen, those who have big banca can be allowed to fish in deep portions, giving preferential right, however, to marginal fishermen to fish in the shallow portions.

Therefore, hearing the different views submitted to this representation the suggestion is to insert the word THE before "communal" to read: "to the preferential use of THE communal marine and fishing resources" to convey the idea that it refers only to that portion which is declared communal. Considering that legislation is the art of the possible, I am willing to accept that suggestion.

MR. DE CASTRO: Mr. Presiding Officer, may I ask one question of the proponent?

THE PRESIDING OFFICER (Mr. Regalado): Commissioner de Castro is recognized.

MR. DE CASTRO: When the Gentleman says "deep and he refers to Laguna de Bay, may I know how many feet is the deepest portion of Laguna de Bay?

I know that Laguna de Bay is deepest during the rainy season, especially from August to September, reaching about 15 feet; then during summer, it is only 12 feet. What is now the communal portion since it is sometimes deep and sometimes shallow? I know this because I live near Laguna de Bay and I may even be considered a marginal fisherman.

MR. DE LOS REYES: The problem in Laguna, as the Gentleman very well knows, is that fish pens are being constructed in those portions where traditionally the small fishermen fish. Because of their big capital, the big fishermen could move their fish pens somewhere in the middle of the lake.

Also, the problem in Laguna de Bay is that there is progressive and uncontrollable siltation. The Gentleman knows what siltation is. Laguna de Bay is becoming a dead lake; it is getting shallower and shallower. And the reason is the fish pens, the bamboos stuck in Laguna de Bay prevent the free flow and circulation of water and that is the cause of siltation.

MR. DE CASTRO: Mr. Presiding Officer, that was the statement made by our governor. He said that bamboos cause siltation and nets prevent water circulation. It is mere common sense, Mr. Presiding Officer.

MR. BENGZON: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Let us hear from the Committee whether they are satisfied by the clarification given by Commissioner de los Reyes.

MR. DE CASTRO: The holes of nets are big and the water can flow through.

MR. BENGZON: We are already zeroing in on a specific portion of the Philippines . . .

MR. DE CASTRO: I only made these comments because I happen to know Laguna Lake which we are talking about, and I am giving this information for the benefit of the Committee.

MR. BENGZON: May we hear from Commissioner Monsod in representation of the Committee.

MR. MONSOD: The explanation of Commissioner de los Reyes of his proposed amendment now clarifies the point we raised before, and we are accepting his amendment.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner de los Reyes will please read his proposed amendment.

MR. DE LOS REYES: "The State shall protect the rights of marginal fishermen and local communities to the PREFERENTIAL USE OF THE communal marine and fishing resources, both inland and offshore . . ." The coauthors are Commissioner Natividad, the Presiding Officer and Commissioner Davide.

THE PRESIDING OFFICER (Mr. Regalado): The amendment has been accepted by the Committee. Is there any objection?

MR. RODRIGO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Rodrigo is recognized.

MR. RODRIGO: Now that the Committee has accepted that amendment, I would like to propound a few questions to the Committee for clarification.

The provision now states that the State shall protect the rights of marginal fishermen and local communities to the preferential use of the communal marine and fishing resources, both inland and offshore.

So, there are two conditions in order to get a preference: first, he must be a marginal fisherman; second, he must live in the local community. Must these two conditions both be present? In other words, does one have to be both a marginal fisherman and live in the community?

MR. MONSOD: Mr. Presiding Officer, those are not conjunctive. In other words, one may be a marginal fisherman and be entitled to preferential use or it may be the entire local community.

MR. RODRIGO: So, a marginal fisherman, let us say, from Bataan, can fish in Bulacan waters, in the communal fishing ground in Bulacan.

MR. MONSOD: We are referring to the fishermen in the area. And what the Committee had in mind was really either individually or the entire community because there are local communities that have formed fishing cooperatives.

MR. RODRIGO: I am not speaking of cooperatives but of marginal fishermen. May any marginal fisherman from any part of the Philippines have preferential right to fish in the communal fishing ground by the shores of Bulacan Province, or only the marginal fishermen in that area of Bulacan Province?

MR. MONSOD: I think we answered the question yesterday during the interpellations of Commissioner Ople, that it is not the primary intention of the Committee to exclude. In other words, somebody from another place who is a marginal fisherman may avail of the preferential use of these marginal areas. So, because it is not exclusive to the people in the area marginal fishermen may avail of them. This was asked yesterday by Commissioner Ople.

MR. RODRIGO: So, provided one is a marginal fisherman, he is given preferential right to fish in any communal

fishing ground anywhere in the Philippines; is that right?

MR. MONSOD: Yes, Mr. Presiding Officer.

MR. RODRIGO: If one lives in the vicinity, even if he is a rich fisherman, he can fish in the communal fishing ground of the vicinity.

MR. MONSOD: Yes, the preferential use is for certain people.

MR. RODRIGO: The Gentleman said this is either-or. As to a marginal fisherman, he does not have to live in the local community to get preferential treatment.

How about those who live in the local communities? Do they get preferential treatment only if they are marginal fishermen?

MR. BENGZON: Yes.

MR. RODRIGO: Or is it enough that they live in the local community?

MR. BENGZON: No. If an individual lives in a local community but he is not a marginal fisherman, he does not have preferential treatment.

MR. RODRIGO: What is then the use of placing "local community" here? We might as well delete the term.

MR. MONSOD: Mr. Presiding Officer, is it the intent of the Committee to refer to groups or to persons who fish as a group in the local community?

MR. RODRIGO: But suppose marginal fishermen from Palawan, fishing as a group, come to Manila Bay to fish in the communal fishing ground by the seashore of Bulacan. They are marginal fishermen working as a group; are they entitled to preference?

MR. BENGZON: We believe that that is really theoretical and may remain theoretical because marginal fishermen, for example, in Palawan, whether they go as individuals or in groups, cannot afford to go to Manila, for example.

MR. RODRIGO: Palawan is indeed too far. How about from Cavite?

MR. BENGZON: Even then. The real intendment here is for people in the local communities, acting individually or as a group. If they are marginal fishermen, then they have preferential treatment over others who are not marginal, whether they live in the community or not.

MR. RODRIGO: As long as they are marginal.

MR. BENGZON: Yes.

MR. RODRIGO: Let us discuss the implementation of this because I would not want to raise the hopes of our people, and afterwards fail in the implementation. How will this be implemented? Will there be licensing or giving of permits so that government Officials will know that one is really a marginal fisherman? Or if policemen say that a person is not a marginal fisherman, he can show his permit, to prove that indeed he is one.

MR. BENGZON: Certainly, there will be some mode of licensing insofar as this is concerned and this particular question could be tackled when we discuss the Article on Local Governments — whether we will leave to the local governments or to Congress on how these things will be implemented. But certainly, I think our congressmen and our local officials will not be bereft of ideas on how to implement this mandate.

MR. MONSOD: There are two aspects to this: the aspect of exclusion and the aspect of inclusion. In the case of exclusion, it is easier. In other words, in areas considered communal, the putting up of fish pens or allowing big fishing enterprises to fish in that area may be prohibited. That is the exclusion aspect. In the case of inclusion, on who are considered marginal fishermen or what are marginal local communities, I believe the answer of Commissioner Bengzon would apply. There might be a need for identifying them by a system of licensing.

MR. RODRIGO: So, once one is licensed as a marginal fisherman, he can go anywhere in the Philippines and fish in any fishing grounds.

MR. BENGZON: Subject to whatever rules and regulations and local laws that may be passed, may be existing or will be passed.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Then Floor Leader is recognized.

MR. RAMA: I think the issue has been sufficiently debated. I move that we take a vote.

MR. VILLEGAS: Presiding Officer, just a possible amendment to avoid confusion on the phrase "local communities." I think it is quite clear that what the Gentleman meant was directly or collectively, as he said in the provision on agrarian reform.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Villegas is offering an amendment to the proposed amendment of Commissioner de los Reyes.

MR. VILLEGAS: Yes, that is right.

THE PRESIDING OFFICER (Mr. Regalado): The Gentleman may proceed.

MR. VILLEGAS: After the phrase "rights of," add MARGINAL FISHERMEN DIRECTLY OR COLLECTIVELY TO THE PREFERENTIAL so that the phrase "local communities" is not misunderstood. So, the provision will read: "The State shall protect the rights of MARGINAL FISHERMEN DIRECTLY OR COLLECTIVELY TO THE PREFERENTIAL use of THE COMMUNAL marine and fishing resources . . ."

MR. MONSOD: What about "INDIVIDUALLY OR COLLECTIVELY"?

MR. VILLEGAS: "INDIVIDUALLY OR COLLECTIVELY."

THE PRESIDING OFFICER (Mr. Regalado): Does Commissioner de los Reyes accept the proposed amendment to his amendment?

MR. DE LOS REYES: Will Commissioner Villegas repeat his amendment?

MR. VILLEGAS: "The State shall protect the rights of MARGINAL FISHERMEN INDIVIDUALLY OR COLLECTIVELY TO THE PREFERENTIAL use . . ." and all the rest will be like the Gentleman's proposal.

MR. DE LOS REYES: What happened to "local communities"?

MR. VILLEGAS: "COLLECTIVELY" refers to "local communities."

MR. DE LOS REYES: We accept the amendment.

THE PRESIDING OFFICER (Mr. Regalado): What does the Committee say?

MR. BENGZON: We accept, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Is there any objection to the proposed amendment, as amended by Commissioner de los Reyes?

MR. RODRIGO: Just one question. Are the words "local communities" deleted?

MR. BENGZON: Yes, the phrase "local communities" was deleted and replaced by the word "COLLECTIVELY."

MR. BROCKA: Mr. Presiding Officer, may I be recognized?

MR. RODRIGO: May I just pursue this point, just one sentence.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Brocka is recognized.

MR. BROCKA: I am a member of the Committee and when we were discussing this — "local communities" specifically — this was in reference to that particular example given, the Laguna de Bay fishermen. So, the phrase "marginal fishermen INDIVIDUALLY AND COLLECTIVELY" does not quite catch the reference to a particular community in that particular area. When we were discussing this particular phrase "local communities," it was in direct reference to a particular fishing community like Laguna de Bay. The amendment does not quite catch the meaning of the discussions on that.

MR. MONSOD: Mr. Presiding Officer, when we used "local communities" earlier, it was appropriate because we were also using "communal use." Then we enlarged the meaning so that we took out "beneficial or communal" and just left "use." We can change the wording to "COLLECTIVE" because it would have the same meaning in that context.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Bacani is recognized.

BISHOP BACANI: Will the meaning be preserved if we say "The State shall protect the rights of marginal fishermen ESPECIALLY THOSE IN THE local communities to the PREFERENTIAL use of the COMMUNAL marine and fishing resources . . . "?

THE PRESIDING OFFICER (Mr. Regalado): What does the Committee say?

MR. BENGZON: The amendment does not capture our real intent.

BISHOP BACANI: The amendment includes marginal fishermen and the preference for them in the local communities because obviously in the Committee, we did not intend to give preference even to the nonmarginal fishermen in the local community. The real stress was for the marginal fishermen in the local communities and I think the amendment will actually express what you are trying to do in the community.

THE PRESIDING OFFICER (Mr. Regalado): So what is the position of the Committee?

SUSPENSION OF SESSION

MR. MONSOD: Mr. Presiding Officer, may we have a minute to consult with the rest of the Committee on this?

THE PRESIDING OFFICER (Mr. Regalado): The session is suspended for a few minutes.

It was 6:27 p.m.

RESUMPTION OF SESSION

At 6:35 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Regalado): The session is resumed.

Will the Committee now state its phraseology of this proposed sentence?

MR. MONSOD: Mr. Presiding Officer, may we ask that Commissioner Bacani be recognized?

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Bacani is recognized.

BISHOP BACANI: Mr. Presiding Officer, after conferring with the members of the Committee, it seems we are all agreed now. The provision will read: "The State shall protect the rights of MARGINAL FISHERMEN ESPECIALLY OF local communities to the PREFERENTIAL USE OF THE communal marine and fishing resources."

THE PRESIDING OFFICER (Mr. Regalado): And that continues to "both inland and offshore, PARTICULARLY IN MUNICIPAL FISHING GROUNDS."

BISHOP BACANI: Yes, Mr. Presiding Officer.

MS. NIEVA: Yes, the Committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Regalado): Is there any objection to this proposed amendment?

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner de Castro is recognized.

MR. DE CASTRO: Before we vote on this, may I be allowed to reserve my definition of "marginal fishermen" because I intend to make the research tonight and see what "marginal" is. As of now, I am not cleared of what is "marginal" and what are "small fishermen." May I reserve the right to define these terms?

THE PRESIDING OFFICER (Mr. Regalado): For inclusion in the Journal tomorrow.

MR. DE CASTRO: Not only for inclusion in the Journal tomorrow but also for the change of the word "marginal" based on the definition because as of now the definition is hand-to-mouth.

THE PRESIDING OFFICER (Mr. Regalado): What does the Committee say?

MR. BENGZON: We request that we first vote on the amendment of Commissioner Bacani and then we will decide on the proposal of Commissioner de Castro.

THE PRESIDING OFFICER (Mr. Regalado): Is there any objection to the proposed amendment as proposed Commissioner Bacani?

MR. PADILLA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Padilla is recognized.

MR. BENGZON: Yes, "the preferential use communal marine and fishing resources."

THE PRESIDING OFFICER (Mr. Regalado): Will Commissioner Bacani please read again his proposed amendment?

BISHOP BACANI: I will read it again although that was not the particular point of the amendment I introduced.

THE PRESIDING OFFICER (Mr. Regalado): Is this within the entire proposed present text?

BISHOP BACANI: "The State shall protect the of marginal fishermen ESPECIALLY OF local communities to the PREFERENTIAL use of THE COMMUNAL marine and fishing resources both inland and offshore PARTICULARLY IN MUNICIPAL FISHING GROUNDS."

MR. PADILLA: Will the proponent consider the rights of marginal fisherman in his local community? I make it singular because when you say in their respective local communities, while it is singular, the preferential right applies to all marginal fishermen.

BISHOP BACANI: There are two senses that we wanted to preserve and that is why that formulation was presented by myself first, that we should also accord preferential treatment to fishermen from other communities provided they are marginalized. Second, we should especially accord the right of preferential use to fishermen who belong to the local community. We do not intend to give the right of preferential use to rich fishermen in the local communities. That is the reason for the special formulation.

MR. BENGZON: Mr. Presiding Officer, may we ask for a vote?

VOTING

THE PRESIDING OFFICER (Mr. Regalado) As many as are in favor of the proposed first sentence of this section, as amended, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 30 votes in favor and none against; the amendment is approved.

MR. DE CASTRO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner de Castro is recognized.

MR. DE CASTRO: May I now reserve my right to define marginal fishermen? May I be given at least tonight to do my research on what "marginal" means?

Thank you.

MR. RAMA: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): The Floor Leader is recognized.

MR. RAMA: I ask that Commissioner Davide be recognized.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Davide is recognized.

MR. DAVIDE: Thank you, Mr. Presiding Officer.

My amendments to Section 8 are very simple. I hope the Committee will accept the same. This would be on lines 5, 6, and 7. On line 5 between the words "provide" and "appropriate," insert SUPPORT THROUGH; between "appropriate" and "financial," insert the following: TECHNOLOGY, RESEARCH AND ADEQUATE. Then delete "tech" at the end of the line. On line 6, delete "nical" and the words "and research" and before "assistance," insert PRODUCTION AND MARKETING. After "assistance," insert the words AND OTHER SUPPORT SERVICES. So, the two lines will read: "grounds, and shall provide SUPPORT THROUGH appropriate technology, research and ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE AND OTHER SUPPORT SERVICES."

THE PRESIDING OFFICER (Mr. Regalado): Just a moment, Commissioner Davide. After "grounds," there is a period.

MR. DAVIDE: Was it placed already?

MS. NIEVA: Yes.

THE PRESIDING OFFICER (Mr. Regalado): So the first sentence ends after the word "grounds." What the Gentleman is now proposing will be the second sentence.

MR. DAVIDE: So, the second sentence will read: "THE STATE shall ALSO provide SUPPORT THROUGH appropriate technology, research and ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE AND OTHER SUPPORT SERVICES, TO SAID FISHERMEN for the . . ."

MS. ROSARIO BRAID: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID: Would Commissioner Davide accept an amendment to his amendment? I was wondering if he can delete the first support" so that it will just read: "THE STATE shall ALSO provide appropriate technology . . . AND OTHER SUPPORT SERVICES."

MR. DAVIDE: Mr. Presiding Officer, we only want a symmetry of this proposal with the earlier wordings on Section 6, and symmetry in the benefits and advantages to be given to both the farmers, farm workers, cooperatives and so on the one hand, and to the marginal fishermen on the other. I would like to consider Commissioner Rosario Braid as a coauthor in view of the use of the words AND OTHER SUPPORT SERVICES, which was her amendment to Section 6.

THE PRESIDING OFFICER (Mr. Regalado): Is Commissioner Rosario Braid satisfied with the Gentleman's withdrawing her amendment to the amendment?

MS. ROSARIO BRAID: I am just concerned about the use of the words and I would be willing to have the anterior amendment in Section 6 and just say "shall provide appropriate technology." It is really just a matter of style and maybe the Committee on Style can handle it.

MR. DAVIDE: Mr. Presiding Officer, the intention here is just to provide support. But if we remove the word "support," it would be mandatory on the part of the State and the State may not be able to afford this. So, I think providing support is the better compromise.

THE PRESIDING OFFICER (Mr. Regalado): Is Commissioner Rosario Braid satisfied with that explanation?

MR. SARMIENTO: Mr. Presiding Officer, may I propose an amendment to the amendment?

MS. ROSARIO BRAID: I yield to Commissioner Sarmiento.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Sarmiento is recognized.

MR. SARMIENTO: Is Commissioner Davide willing to delete the word "SUPPORT" in the phrase "AND OTHER SUPPORT SERVICES" because we would be having two "supports." So, the amendment will read: "provide SUPPORT THROUGH appropriate technology, research and ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE AND OTHER SERVICES."

MR. DAVIDE: We are agreeable with the interpretation that these other services would simply mean other support services. But just to avoid repeating the word "support," we are agreeable.

MR. SUAREZ: Will the Honorable Davide agree to change the beginning of the sentence from "THE STATE" to IT because there is already a repetition?

MR. DAVIDE: Gladly, Mr. Presiding Officer.

MR. SUAREZ: Thank you.

THE PRESIDING OFFICER (Mr. Regalado): So, how will the proposed second sentence now read?

MR. DAVIDE: It will now read as follows: "IT shall also provide SUPPORT THROUGH appropriate technology, research and ADEQUATE FINANCIAL, PRODUCTION AND MARKETING ASSISTANCE AND OTHER SERVICES, TO SAID FISHERMEN for the . . ."

THE PRESIDING OFFICER (Mr. Regalado): May we hear from the Committee?

MR. BENGZON: We accept the amendment.

MS. NIEVA: The Committee accepts, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Is there any objection to the proposed amendment constituting the second sentence of this section? (Silence) The Chair hears none; the amendment is approved.

MR. DAVIDE: I wonder if Commissioner Ople would have no amendment.

MR. RAMA: He has an amendment on the same section.

MR. OPLE: An additional sentence which, of course, would require dropping the phrase about foreign intrusion.

MS. NIEVA: The phrase was dropped.

MR. OPLE: Was it already dropped?

MS. NIEVA: Yes, this was a mistake yesterday.

MR. OPLE: So, I do not think I would stand in the way of any further amendment by Commissioner Davide.

MR. DAVIDE: The words "and from intrusion of foreign investments . . ."

MS. NIEVA: The phrase was dropped by the Committee. It was only typed in by mistake of the staff. There is a corrected page but we are just using this one.

MR. DAVIDE: So, this was dropped already because my proposal will be to delete this phrase.

THE PRESIDING OFFICER (Mr. Regalado): So where will the sentence end?

MR. DAVIDE: However, I would like to insert the word PROTECTION and a comma (,) before "development" on line 7 because this will give way to another proposal regarding foreign intrusion but worded differently. I understand that Commissioner Ople will have an amendment to that effect. So, in anticipation of his amendment which would relate to protection, we would now insert the word PROTECTION and a comma (,) before "development to read: "PROTECTION, development and conservation of such resources."

MS. NIEVA: The Committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Regalado): Then we delete "and from intrusion of foreign investments."

MR. DAVIDE: Yes, that has already been deleted. So, it is just the insertion of the word PROTECTION followed by a comma (,) before "development" on line 7, to give way to the Ople proposal which I also am willing to

support.

THE PRESIDING OFFICER (Mr. Regalado): Is there any objection? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA: I ask that Commissioner Ople be recognized.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Ople is recognized.

MR. OPLE: Thank you, Mr. Presiding Officer.

The proposed amendment which is a new sentence under Section 8 shall read as follows: THE STATE SHALL ESTABLISH A POLICY TO PROTECT FROM FOREIGN INTRUSION THE NATIONAL TERRITORIAL WATERS WITH THEIR MARINE WEALTH WHICH SHALL BE RESERVED TO EXCLUSIVE EXPLOITATION BY FILIPINO CITIZENS ESPECIALLY SMALL FISHERMEN. This amendment is proposed jointly by Commissioners Natividad, Rodrigo, de los Reyes, de Castro, Davide and myself. I think I will spare the Commission and the Committee the reiteration of the basis for this amendment which I made yesterday during the general debate. We all know that the intrusion of foreign fishing vessels in our fishing waters, among the richest in Southeast Asia and the Pacific, has reached scandalous proportions. In a place just off Iba, Zambales — and this incident I had the occasion to report to this body yesterday — to add insult to injury, Japanese fishing vessels even have the temerity to ram the small boats of small Filipino fishermen. This was brought to my attention and a report was sent by me to competent authorities concerning this. Therefore, I think this will round off the section immediately preceding in terms of declaring a policy to protect our marine wealth in our own territorial waters from the intrusion of foreign fishing vessels and from foreign capital. There is an element in the last part where a policy of preserving the exploitation of our marine wealth to Filipino citizens especially small fishermen is set forth. So, I ask for the Committee's kind consideration of this proposed amendment.

MR. FOZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Foz is recognized.

MR. FOZ: May I ask just one question of the proponent of the amendment?

MR. OPLE: Very gladly, Mr. Presiding Officer.

MR. FOZ: By national territorial waters, are we referring to the territorial sea of the Philippines?

MR. OPLE: Yes, especially the coastal waters which are exploited but which should be exploited by our own fishermen alone, by our own citizens alone.

MR. FOZ: Are we also referring to the so-called archipelagic waters?

MR. OPLE: I am not sure but I understand the specific meaning of archipelagic waters. But if they belong to our territorial waters, then they are comprised by these.

MR. FOZ: What about the internal waters as mentioned and more or less defined in our Article on the National Territory?

MR. OPLE: They are comprised undoubtedly; Mr. Presiding Officer.

MR. FOZ: What about the waters in the so-called exclusive economic zone over which, under the Convention of the Law of the Sea, the Philippines has jurisdiction?

MR. OPLE: The construction of the 200-mile economic zone by most authorities pertains to the wealth in the

seabed. I think in the same degree that Filipino fishermen are allowed to fish in the 200-economic mile zone of our neighboring countries, then this same privilege should not be denied to the fishermen of other countries.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Concepcion is recognized.

MR. CONCEPCION: The 200-mile exclusive economic zone is now part of the internal waters of the Philippines. Our base line is drawn from the farthest points into the sea. The line drawn extends from Batanes to Palawan, down to the southernmost part of Mindanao, following the farthest point of our territory into the sea. The economic zone starts from the base line at present. There is no question, therefore, that from the old meaning of these terms, the area in question is included within our internal waters, which is subject to our sovereignty.

MR. OPLE: I want to thank Commissioner Concepcion for offering this information, although this may differ somewhat from the meaning attributed by others to the 200-economic mile zone. I do not think the 200-mile economic zone has a one-to-one correspondence with our internal waters. As a matter of fact, these economic zones have to be negotiated with neighboring countries when there is an overlap of the 200-mile economic zones. An example is Taiwan which is separated from the northern cape of Luzon by just about 120 miles, and where do we put the economic zone of the Philippines and of Taiwan in that respect?

MR. CONCEPCION: That was before the adoption of the archipelagic doctrine but not since then.

MR. OPLE: To the extent that Commissioner Concepcion is right, so long as an economic zone is understood to comprise part of our internal waters, then there is a call under this paragraph for the Philippines to protect these waters and their marine wealth from foreign intrusion, Mr. Presiding Officer.

MR. CONCEPCION: Thank you, Mr. Presiding Officer.

MR. BENNAGEN: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Bennagen is recognized.

MR. BENNAGEN: May we ask the proponent for the sake of the record as to what is encompassed by foreign intrusion?

MR. OPLE: Foreign intrusion in this respect refers above all to fishing vessels which directly encroach on marine wealth that should be enjoyed exclusively by our fishermen. Secondly, it refers to foreign capital because as we can see in the last clause, the marine wealth in this territorial water shall be reserved to exclusive exploitation by Filipino citizens and, therefore, foreign capital is considered a form of intrusion once this is adopted.

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Suarez is recognized.

MR. SUAREZ: Would the Gentleman have any objection to going for the jugular by removing the phrase "ALSO ESTABLISH A POLICY TO" such that the proposed amendment would read: "THE STATE SHALL PROTECT FROM FOREIGN INTRUSION..."?

MR. OPLE: Yes, I welcome the amendment which improves the paragraph, as a matter of fact, Mr. Presiding Officer.

MR. SUAREZ: Thank you.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Davide is recognized.

MR. DAVIDE: Just for the record, I would like to read the Article on National Territory that the Commission had approved.

I think the intention of Commissioner Ople will only include the territorial waters; it would not expand to the territorial sea over which the Philippines would still have jurisdiction. The article reads:

The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including the territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas thereof. The waters around, between and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the Philippines.

I would like to inquire from Commissioner Ople if by "territorial waters" he would include the territorial sea over which the Philippines has jurisdiction?

MR. OPLE: I would like to say, yes, Mr. Presiding Officer.

MR. DAVIDE: So, if the idea is such, the provision should read . . .

MR. OPLE: Just a minute. May I please continue that sentence?

MR. DAVIDE: Yes.

MR. OPLE: I said I would like to say yes but when we speak of the territorial sea, this can extend, I understand, to about 300 miles from the nearest base lines under the archipelagic theory. This may modify the scope of this article which is meant to be an article on social justice, in support of social justice for fishermen to something like a national policy on national security and foreign relations. So, I want to be more modest — keep the idea of this protection within bounds and to an extent that the State, without arousing false hopes and expectations, can actually endeavor to carry out. And I feel safer when for purposes of determining the intent of this Commission, we really want to confine ourselves to protecting the territorial waters of the Philippines. Maybe someday when we have a real navy and a coast guard capable of policing the entire length and breadth of the country which is twice the coastline of the United States, then the construction of this paragraph can rise to a new level; it also means that the State has a duty to protect our marine resources and the rights of our small fishermen from foreign intrusion in the territorial sea.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Monsod is recognized.

MR. MONSOD: May we just ask a clarificatory question? We are now including areas that could be the subject of exploitation by commercial fishing. Would the Gentleman include in the definition of Filipino citizens corporations of which 60 percent is owned by Filipino citizens?

MR. OPLE: Yes, in accordance with the provision of the Article on the National Economy which very soon will reach the plenary session.

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Davide may proceed.

MR. DAVIDE: Just an additional question for Commissioner Ople. By territorial waters, would the Gentleman actually mean the internal waters of the Philippines as defined under the Article on National Territory which will not include the territorial sea?

MR. OPLE: Yes, without prejudice to any other section of the Constitution, raising its sights higher with respect to the protection of our territorial seas for purposes of national security.

MR. DAVIDE: In other words, Congress may have, subsequently or later, the authority to include in territorial waters the territorial sea itself?

MR. OPLE: Yes, I want to confirm that, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): So, may we have the proposed amendment with the deletion and the transposition duly taken into account.

MR. OPLE: Yes, Mr. Presiding Officer. The amendment reads: "THE STATE SHALL PROTECT FROM FOREIGN INTRUSION THE NATIONAL TERRITORIAL WATERS WITH THEIR MARINE WEALTH WHICH SHALL BE RESERVED TO EXCLUSIVE EXPLOITATION BY FILIPINO CITIZENS ESPECIALLY SMALL FISHERMEN."

THE PRESIDING OFFICER (Mr. Regalado): What does the Committee say?

MR. BENGZON: We just want to ask some clarification, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Bengzon is recognized.

MR. BENGZON: The intent of this paragraph, I believe, is to protect the small fisherman.

MR. OPLE: Yes, and the rights of the Filipino people, to whom the fishermen belong as a major group, to the exclusive use of their own marine resources that God has given them.

MR. BENGZON: Then this is not really a paragraph that pertains to this particular Article. This should be a paragraph that pertains to the Article on the National Economy because it is wider in its scope.

MR. OPLE: It does pertain, Mr. Presiding Officer, to social justice. It pertains to the rights of small fishermen, but within the context of a policy to reserve the marine wealth of our own territorial waters, especially of our internal waters, to exclusive exploitation by Filipino citizens; meaning, in the majority of cases, Filipino fishermen.

MR. BENGZON: Would the Gentleman have any objections if we defer this until we discuss the Article on the National Economy? Perhaps we could include this concept on the Article on the National Economy?

MR. OPLE: I think this is appropriately located as it is. I do not think a nationalistic policy would be incompatible with the rights of small fishermen, especially when we are thinking of conserving these easily depleted resources for the use and enjoyment of our own fishermen and of our own people. So, I do not believe it must wait for another committee, dealing with national patrimony, to send its report to this Committee before we act on this provision which has been under debate since yesterday.

MS. QUESADA: Mr. Presiding Officer, may I ask some clarificatory questions of Commissioner Ople?

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Quesada is recognized.

MS. QUESADA: As we said earlier, we are referring particularly to the interest or to the protection of small fishermen. But with the statement "to the exclusive exploitation by Filipino citizens," is the Gentleman also not disregarding the interest of big fishermen in this particular provision?

MR. OPLE: Yes, the emphasis is especially small fishermen. The position in which I see the bigger Filipino fishermen is relative to Japanese, Taiwanese and Korean intruders into our shores; they are the victims of social injustice.

MS. NIEVA: Will the Gentleman give us one minute? We are trying to formulate or reformulate this in such a way that the social justice aspect will not be lost, as the Commissioner said.

MR. OPLE: I am absolutely at the disposal of the Committee.

MS. NIEVA: I think we are more concerned here with the protection of the rights of the small fishermen from foreign intrusion. We believe that the parts about "exclusive exploitation by Filipino citizens" belong rightly to the Article on the National Economy. However, for social justice, we agree that the rights of the small fishermen should be protected from foreign intrusion. So, we are trying to reformulate.

MR. MONSOD: In effect what we are saying is that the marginal fishermen have certain traditional areas where they fish. These areas are not necessarily the areas that large-scale corporations can fish in. And, if we get the Commissioner's original intent, areas which are the traditional fishing grounds of marginal fishermen should be protected.

With respect to the general principle of exclusive use of marine and fishing resources in territorial waters, that might be more appropriate in the Article on the National Economy. So, if we can insert a phrase regarding marginal fishermen in the same section, we may serve the Commissioner's purpose and then transpose the bigger paragraph in the Article on the National Economy section.

MR. OPLE: That is precisely my point, Mr. Presiding Officer, that there is a full-bodied context to the rights of the small fishermen in this paragraph. Although we try to distinguish here between the small fishermen and the bigger fishermen, we might lose sight of a community of interest between them in the sense that they have to share the same marine resources that should be reserved to the exclusive enjoyment of Filipino citizens, especially fishermen, and more especially, the small fishermen. What I am saying is that if we had inserted in the previous section the objectives of protection and conservation and development of our marine resources, I see no reason why we cannot transpose the same principle in a more nationalistic context where there is a unity of interest between the small fishermen and the big fishermen and the Filipino people as a whole.

May I call your attention to the fact that the deep-sea fishing fleets of the Philippines are just about gone. They cannot compete with Taiwanese, Korean and Japanese fishing operators who routinely, habitually, and with total impunity intrude into our waters, depleting the marine resources that should be reserved to the exclusive exploitation and enjoyment of the Filipino people. So, why do we have to truncate this paragraph, separate the class context from the national context, just because we have to satisfy some needs or standards of division between the Committee on the National Economy and the Committee on Social Justice? I believe that a great part of the contextual meaning intended for this paragraph is lost.

REV. RIGOS: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): The Committee is still determining the proper situs for this amendment. Let us hear from Commissioner Rigos because his amendment may have a bearing on this.

REV. RIGOS: Mr. Presiding Officer, I do not detect any strong objection of the Committee to this proposed amendment. Perhaps, we can act on this proposed amendment with the understanding that should the Style Committee find that it belongs more properly to another article, that said Committee be given the privilege to transfer it.

MR. SARMIENTO: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Sarmiento is recognized.

MR. SARMIENTO: I personally believe that this section should not express the unified interest of small and big

fishermen. I think this section should only pertain to small fishermen. May I be allowed to explain briefly?

Our small fishermen are complaining against big fishermen. We have Filipino big fishermen who have modern fishing technology with sonars, radars and echo sounders to track down fish at the expense of small fishermen. As a matter of fact, fishermen from San Sebastian, Samar expressed that there are big fishing capitalists who are subdividing sea areas among themselves and are collecting tributes from fishermen who trespass. In Lilanga Lake, Zambales — again, this pertains to Filipino big fishermen — there are rich businessmen who have been appropriating for themselves large portions of Lilanga Lake to develop into fishponds. The lake is 20 hectares wide in San Roque, Lilanga, Zambales. So, I personally believe that this section should not express the unified interests of two sectors — small and big fishermen, I think this should express the interest of small, marginal fishermen.

MR. OPLE: Mr. Presiding Officer, I am for conserving time and for conserving the efforts that have already been exerted especially on this subject by the Committee which has been working hard the whole day. If it needs this new line of thought that there should be no bond of unity between one upper crust and one lower crust the same fishermen sector in Filipino society for purposes of the Article on Social Justice, I would be amenable right now to saying that this protection from foreign intrusion shall pertain mainly to the rights of the small fishermen so that the provision will read: "The State shall protect FROM FOREIGN INTRUSION THE NATIONAL TERRITORIAL WATERS WITH THEIR MARINE WEALTH WHICH SHALL BE RESERVED PRINCIPALLY TO THE USE AND ENJOYMENT OF SMALL FISHERMEN."

MR. DAVIDE: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Davide is recognized.

MR. OPLE: If incidentally, this benefits the richer fishermen, then that is completely incidental.

MR. DAVIDE: Would the proponent agree to son amendments without prejudice to introducing in the proper Article on the National Economy and Patrimony the bigger concept? If the intention is just to harmonize this totally for social justice, the proposed amendment would read as follows: after "resources," insert comma (,) and the following: INCLUDING PROTECTION AGAINST INTRUSION BY FOREIGN INTERESTS IN THE USE AND ENJOYMENT THEREOF.

So, that would leave the matter completely to the marginal fishermen. But it would also mean protection not only of the fishermen but also of the marine and fishing resources against intrusion by foreign interests in the use and enjoyment thereof.

I used the word "interest" so it will qualify all kinds of foreign intrusion, whether it would be by a capitalist or whether it would be by a dummy. I wonder if that would be acceptable to the Committee. But we leave the matter of general principle on reserving these fishing and marine resources to Filipino citizens only in the Article on the National Economy and the Patrimony of the nation.

MR. OPLE: Before I yield on this point, Mr. Presiding Officer, and I am so concerned that the Commission should now take a well-earned rest at the end of a very tough and exhilarating day, may I know whether the Chairman of the National Patrimony Committee who is here will agree to a clause or a sentence when the patrimony amendment reaches the floor that will embody this concept of the exclusive exploitation by Filipino citizens of our own marine resources?

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Villegas is recognized.

MR. VILLEGAS: Yes, Mr. Presiding Officer. In fact, it fits very well into one of the articles.

MR. OPLE: On that basis then, I am receptive to the Davide amendment, Mr. Presiding Officer, unless it clutters up unduly this well-sculptured preceding sentence.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Monsod is recognized.

MR. MONSOD: We would like to sleep on this thing but we would like to suggest that perhaps, we can draft something that might express the concern of small fishermen in the seashores that was referred to by Commissioner Sarmiento if we say: "THE STATE SHALL PROTECT THE TRADITIONAL FISHING GROUNDS OF MUNICIPAL FISHERMEN FROM THE INTRUSION OF FOREIGN FISHING VESSELS."

MR. DAVIDE: That would not convey the fullness of the idea. It is not just shipping vessels but foreign corporations, partnerships or associations or fishermen fishing in these areas. It is not intrusion by the use of vessels passing through or over it.

MR. MONSOD: The intrusion of foreign interests.

MR. DAVIDE: That is it. So, it is just to continue the original wording. After "resources," add a comma (,) and the following: INCLUDING PROTECTION AGAINST INTRUSION BY FOREIGN INTERESTS IN THE USE AND ENJOYMENT THEREOF, meaning, the marine and fishing resources.

MR. OPLE: Will Commissioner Davide consider an alternative amendment which I would like to propose on behalf of Commissioner Romulo and myself, as well as Commissioner Davide, if he is willing to associate with a somewhat amended version of his version?

MR. DAVIDE: Gladly, Mr. Presiding Officer.

MR. OPLE: The amendment will read: "THE STATE SHALL PROTECT THE SMALL FISHERMEN IN THE NATIONAL TERRITORIAL WATERS. THE STATE SHALL PROTECT THE SMALL FISHERMEN FROM FOREIGN INTRUSION."

MR. DAVIDE: Mr. Presiding Officer, the idea of my proposal is to widen the umbrella of the protection. It is not only protection of the interest of the marginal fishermen but also of the resources themselves.

MR. BENGZON: Then that is not social justice anymore.

MR. MONSOD: That would be national economy.

MR. BENGZON: That is already national territory.

MR. DAVIDE: No, it is not, because these natural resources are reserved for the marginal fishermen.

MR. BENGZON: Not only for marginal fishermen.

MR. DAVIDE: Not necessarily the marginal fishermen.

MR. OPLE: Mr. Presiding Officer, may I call the attention of Commissioner Davide once again to this formulation: "THE STATE SHALL PROTECT THE SMALL FISHERMEN IN THE NATIONAL TERRITORIAL WATERS FROM FOREIGN INTRUSION." By construction, foreign intrusion refers to foreign fishing vessels with their superior equipment, and also to foreign capital or its agents.

MR. DAVIDE: I would propose an amendment: AGAINST FOREIGN INTERESTS.

MR. OPLE: The amendment is accepted, Mr. Presiding Officer. In its latest permutation may I read the

amendment, as amended: "THE STATE SHALL PROTECT THE SMALL FISHERMEN FROM THE INTRUSION OF FOREIGN INTERESTS."

MR. DAVIDE: AGAINST FOREIGN INTERESTS.

MR. OPLE: "AGAINST FOREIGN INTERESTS." But that sounds slightly xenophobic. In a Constitution, one has to look for a buffer between intrusion and interests.

MR. LERUM: Mr. Presiding Officer, may I ask a question.

MR. MONSOD: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): Commissioner Monsod is recognized.

ADJOURNMENT OF SESSION

MR. MONSOD: May we request an adjournment of the session so that each of us can go back and draft a proposal along the same lines.

MR. OPLE: Yes, I endorse the proposal, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Regalado): The consideration is deferred and the session is adjourned until 9:30 a.m. tomorrow.

It was 7:23 p.m.

[*] Appeared after the roll call

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